

**PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Pulliam v. County of Fort Bend, Texas, et al.

Case No. 4:22-cv-4210

EXHIBIT 2

Sheriff Eric Fagan

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JUSTIN PULLIAM,

Plaintiff,

v.

Civil Action No. 4:22-cv-4210

COUNTY OF FORT BEND, TEXAS;
SHERIFF ERIC FAGAN, in his
Individual capacity; OFFICER ROBERT
HARTFIELD, in his individual capacity;
OFFICER JONATHAN GARCIA, in his
Individual capacity; OFFICER TAYLOR
ROLLINS, in his individual capacity;
And OFFICER RICKY RODRIGUEZ, in
His individual capacity,
Defendants

ORAL DEPOSITION

OF

SHERIFF ERIC FAGAN

Taken at the Offices of
Fort Bend County Attorney
401 Jackson St., 3rd Floor Conference
Richmond, Texas

August 9, 2023

9:03 a.m.

Sheriff Eric Pagan

1 APPEARANCES:

2 FOR PLAINTIFFS:

3 INSTITUTE FOR JUSTICE
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Austin, TX 78701
By: Christen Mason Hebert
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7 FOR DEFENDANTS:

8 Kevin Hedges
Assistant County Attorney
9 Litigation Division
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10 3rd Floor
Richmond, TX 77469
11 Kevin.Hedges@FBCtx.gov

12

13 ALSO PRESENT: Molly Hanis

14 REPORTED BY: Sarah B. Townsley, CSR, CRR, RPR

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Sheriff Eric Fagan

1 STIPULATIONS

2 IT IS HEREBY STIPULATED BY AND BETWEEN COUNSEL FOR
3 THE PARTIES HEREIN THAT THE ORAL DEPOSITION OF SHERIFF
4 ERIC FAGAN WAS TAKEN BEFORE SARAH B. TOWNSLEY, CRR, CCR,
5 CSR, RPR, CERTIFIED REALTIME REPORTER IN AND FOR THE
6 STATES OF TEXAS AND LOUISIANA, PURSUANT TO NOTICE AND IN
7 ACCORDANCE WITH THE FEDERAL RULES OF CIVIL PROCEDURE AS
8 PROVIDED BY LAW, AT THE COUNTY ATTORNEY'S OFFICE, 401
9 JACKSON STREET, 3RD FLOOR, RICHMOND, TEXAS, ON AUGUST 9,
10 2023, AT 9:03 A.M.;

11 THE PARTIES HEREBY WAIVE ALL FORMALITIES IN
12 CONNECTION WITH THE TAKING OF THE DEPOSITION, WITH THE
13 EXCEPTION OF THE SWEARING OF THE WITNESS AND THE
14 REDUCTION OF THE QUESTIONS AND ANSWERS TO TYPEWRITING;

15 THE RIGHT OF THE WITNESS TO READ AND SIGN A COMPLETED
16 TRANSCRIPT OF TESTIMONY IS SPECIFICALLY RESERVED;

17 COUNSEL FOR ALL PARTIES RESERVE ALL OBJECTIONS EXCEPT
18 AS TO THE FORM OF THE QUESTION AND RESPONSIVENESS OF THE
19 ANSWER AT THE TIME OF TAKING OF SAID DEPOSITION, AND
20 THEY ALSO RESERVE THE RIGHT TO MAKE OBJECTIONS AT THE
21 TIME THAT TAKING OF SAID DEPOSITION OF ANY PART THEREOF
22 MAY BE OFFERED INTO EVIDENCE, WITH THE SAME RIGHTS AS IF
23 THE TESTIMONY HAD BEEN GIVEN IN OPEN COURT;

24 SARAH B. TOWNSLEY, CCR, CSR, RPR, OFFICIATED IN
25 ADMINISTERING THE OATH TO THE WITNESS.

Sheriff Eric Pagan

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Sheriff Eric Fagan

1 PROCEEDINGS:

2 SHERIFF ERIC FAGAN,

3 having been first duly sworn by the court reporter,

4 testified on oath as follows:

5 COURT REPORTER: We're on the record at

6 9:03 a.m.

7 [Witness was sworn.]

8 EXAMINATION BY MS. HEBERT:

9 Q. Good morning, Sheriff Fagan.

10 A. Good morning.

11 Q. I'm Christy Hebert. We just introduced
12 ourselves, and, as you know, I represent the plaintiff,
13 Justin Pulliam.

14 The court reporter, Sarah, just swore you in.
15 Just to kind of refresh -- this is Jeff Rows. You
16 just met him, and this is my paralegal Molly Hanis.
17 Your attorney, Kevin Hedges, is here today. Thanks for
18 being with us, Kevin.

19 MR. HEDGES: Sure.

20 Q. So we'll just kind of do the usual stipulations.
21 By being here, you're waiving any objections to your
22 notice of deposition, and you're waiving any objections
23 to Sarah's qualifications. Sarah's a great court
24 reporter. I just met her, you know, but -- by putting
25 this on the record, we're waiving any objections to

Sheriff Eric Fagan

1 Sarah's qualifications.

2 A. I like court reporters. My wife is a court
3 reporter.

4 Q. So then you know all about court reporters and
5 all the things they see on their day-to-day basis, I'm
6 sure.

7 So will you state your full name for the record?
8 I know you already did, but --

9 A. Eric Wayne Fagan.

10 Q. Eric Wayne Fagan. So, Wayne; you kind of have a
11 Bruce Wayne connection?

12 A. No.

13 Q. Just checking. Before we go on, I'd like to go
14 over a couple of housekeeping matters, to make things
15 easier on us today. Have you ever testified under oath
16 before?

17 A. Yes.

18 Q. Have you ever taken a deposition before?

19 A. Yes.

20 Q. So you understand that, today, you're under
21 oath, the same as if you were in a courtroom testifying
22 before a judge?

23 A. Yes.

24 Q. And that means you swore to tell the truth?

25 A. Yes.

1 Q. Great. We'll go over a couple things for the
2 record. It's important to have a clear record. That
3 means I need to ask clear questions, and you need to
4 provide clear verbal answers. So that means,
5 obviously, don't shake your head -- "yes" or "no", and
6 no "uh-huh" or "uh-uh." Say for the record in the
7 future -- and if you slip up and start shaking your
8 head, or say "uh-huh" or "uh-uh", I'll try to ask you
9 to say "yes" or "no." If you don't understand a
10 question, please let me know, and I'll either ask Sarah
11 to read it back, or I'll try to rephrase it; and then,
12 similarly, try not to begin answering a question before
13 I've finished asking it, and I will try not to
14 interrupt you when you're answering something. So
15 we'll try not to interrupt each other.

16 And then, finally, I think it's generally safe
17 to assume that I'm not asking you any questions about
18 what you've talked about with Mr. Hedges, that we are
19 not going to try to ask any questions about
20 attorney-client communications, so you can just assume
21 that, and I'll try to, like, distinguish that anytime I
22 ask about who you talked to or something like that. If
23 you do not know the answer to a question, you can say
24 "I don't know", but if you do know the answer to the
25 question, you are required to provide that answer. Mr.

1 Hedges, who, obviously, you're familiar with, and who
2 represents the county, he may state an objection after I
3 ask the question, but that doesn't necessarily mean that
4 I asked a bad question. It just means that Mr. Hedges
5 is trying to preserve the right to later object to the
6 question because it doesn't follow the rules of
7 evidence. Do you understand all that?

8 A. Yes.

9 Q. If you would like to take a break or need to get
10 a drink or use the restroom, that's fine. Please let
11 either of us know, either Mr. Hedges or myself, and we
12 will try to take a break. I only ask that you finish
13 answering the question before you take a break, so in
14 between questions is when we would really look to take
15 a break. Is there any reason that you couldn't give
16 your fullest or best testimony today, such as you're
17 taking an impairing medication or something along those
18 lines?

19 A. No.

20 Q. We're going to look at some documents today.
21 You have the right to read and understand everything
22 that's in the document, and I don't want to rush you
23 through them, so please let me know if I'm asking you a
24 question before you're ready. We're also going to look
25 at some video clips today. To save time, I've

1 identified relevant timestamps or portions of the
2 video, and we'll go to those particular time stamps, but
3 it is your right to watch the video in its entirety with
4 Mr. Hedges at any particular time. Some videos are
5 longer than others. I'm not trying to trick you, here.
6 Rather than just watching every video every time I ask a
7 question. I'm looking to focus on particular parts,
8 but, again, if you need to see more of the video,
9 please let us know. Do you have any other questions
10 before we continue?

11 A. No.

12 Q. Do you understand all of that?

13 A. Yes.

14 Q. I'm going to start by looking at your deposition
15 notice for today. We're going to mark that as Exhibit
16 1.

17 [Exhibit 1 was marked.]

18 BY MS. HEBERT:

19 Q. Have you seen this notice before?

20 A. Yes.

21 Q. Did you do anything to prepare for today's
22 deposition, other than talking to Mr. Hedges?

23 A. No.

24 Q. Did you review any documents?

25 A. No.

1 Q. Okay. Did you discuss this deposition with
2 anybody besides Mr. Hedges?

3 A. No.

4 Q. Did you bring any documents with you to the
5 deposition, other than your newspaper?

6 A. No. Just the newspaper.

7 Q. And did you watch any videos in preparation for
8 this deposition?

9 A. Yes.

10 Q. What videos did you watch?

11 A. The one at the park. I saw that video.

12 Q. Okay, and how did you watch that video?

13 A. On my computer.

14 Q. Did you -- did Mr. Hedges send you a link, or
15 did you access the link from somewhere else?

16 A. His computer.

17 MR. HEDGES: We watched it together. I
18 said my computer. I meant his computer.

19 BY MS. HEBERT:

20 Q. So Mr. Hedges accessed the link for you and you
21 watched it?

22 A. Yes.

23 Q. Okay. Thank you. We're going to talk a lot
24 about Fort Bend County Sheriff's Office today. When I
25 -- to short-cut that, rather than say "Fort Bend County

Sheriff Eric Pagan

1 Sheriff's Office" every time, can we agree that every
2 time I say "the sheriff's office, I'm referring to Fort
3 Bend County Sheriff's Office?

4 A. Yes.

5 Q. And anytime I say "the sheriff", can we agree
6 that I'm going to be referring to you or your position
7 as the sheriff of Fort Bend County Sheriff's Office?

8 A. Yes.

9 Q. Thank you. All right, so just to get some
10 background stuff out of the way, before you became the
11 sheriff, what did you do?

12 A. I was a Houston police officer.

13 Q. And what was your role as a Houston police
14 officer?

15 A. I worked on the mayor's protection security
16 detail with my last position.

17 Q. So you had other positions with the Houston
18 Police Department?

19 A. You want to know all of them?

20 Q. Just give me a general list.

21 A. I worked at the patrol station southeast for
22 Mykawa. From Mykawa, working there -- from there, I
23 worked in IAD. I worked in --

24 Q. Wait, wait. What's IED?

25 A. IAD; internal affairs. From there, I worked

1 mediations. From there, I went to the mayor's
2 protection detail. From there, I went to Chief
3 Flanders' office, and, from there, I retired.

4 Q. So you retired from the Houston Police
5 Department?

6 A. Yes.

7 Q. And it sounds like you had a long career at the
8 Houston Police Department. How long were you there?

9 A. 35 years.

10 Q. Wow. Any other agencies besides the Houston
11 Police Department, before you were sheriff?

12 A. I worked at the marshal's office, but the
13 marshal got taken in by the Houston Police Department.

14 Q. The United States Marshal's Office?

15 A. No. City marshal.

16 Q. How long were you with the city marshal's --

17 A. I think it was four years before they got taken
18 in.

19 Q. Four years?

20 A. Uh-huh; four to five years before they got taken
21 in.

22 Q. Four to five; not 45?

23 A. No, four to five.

24 Q. And you were elected sheriff in 2020?

25 A. Yes.

1 Q. And before that, did you work with the Fort Bend
2 County Sheriff's Office at all?

3 A. No.

4 Q. So this was your first position?

5 A. Yes. I've worked for Harris County Sheriff's
6 Department. I forgot about that; for a year.

7 Q. When did you work for the Harris County
8 Sheriff's Department?

9 A. It was the time Captain Whitmire was mayor. I
10 went for a year and then I came back.

11 Q. Came back to?

12 A. Houston Police Department.

13 Q. Okay, so let me just summarize the order. You
14 worked for the rangers --

15 A. City marshal.

16 Q. City marshal. So you worked for the city
17 marshal, they got absorbed into the Houston Police
18 Department --

19 A. Police department.

20 Q. You took a hiatus year to work for the Harris
21 County Sheriff's Office, and then you came back to the
22 Houston Police Department?

23 A. Correct.

24 Q. And, all in all, that was, let's say -- 39 years
25 of law enforcement before you became sheriff?

1 A. Yes.

2 Q. And what are the main responsibilities of being
3 sheriff?

4 A. I have to make policies for the department, the
5 county jail, which is one of the largest
6 responsibilities. Patrol, investigations, Raven,
7 everything.

8 Q. Raven? What is that?

9 A. Helicopter. I'm sorry. Helicopter.

10 Q. That's okay. I'm new to the law enforcement
11 world, so I might ask you a bunch of questions that
12 probably seem basic as I get an understanding. Thank
13 you for explaining it. And what made you decide to run
14 for sheriff?

15 A. I lived in Fort Bend County for 31 years while I
16 worked in Houston. At the time I decided to run, the
17 former sheriff made a statement that there was no human
18 trafficking here in Fort Bend, and there was no gang
19 problem here in Fort Bend, and so I decided to run.

20 Q. To fix some of those problems?

21 A. Yes.

22 Q. And when did you take office as sheriff?

23 A. January of 2020.

24 Q. So you took office January of 2020?

25 A. (Witness nods head.)

Sheriff Eric Pagan

1 Q. But you ran -- did you run -- you ran for office
2 in 2020?

3 A. Yes.

4 Q. So you would have taken --

5 A. January 2021, yes.

6 Q. So you took office in January of 2021?

7 A. Yes. I'm sorry.

8 Q. That's okay. And, as taking office as sheriff
9 -- in taking office as sheriff, was part of that taking
10 office you taking an oath of office?

11 A. Yes, I had to take a oath.

12 Q. And was part of the oath swearing that you would
13 preserve the Constitution of the United States?

14 A. Yes.

15 Q. And are you seeking re-election?

16 A. Yes.

17 Q. Is your term four years?

18 A. Yes.

19 Q. And so you're looking for another four years?

20 A. Yes.

21 Q. Is it like a pie-eating contest, where you get
22 more pie?

23 A. No.

24 Q. I want to talk a little bit about your campaign
25 before you became sheriff. Was securing body cameras

1 for front-line sheriff's officers part of your campaign
2 in 2020?

3 A. Yes.

4 Q. Can you tell me about that? Why did you want
5 body cameras for officers?

6 A. To be more transparent, not only for the
7 security and for the safety of my officers. Body
8 cameras works both ways for the citizens and the
9 officers, because a lot of officers get a lot of
10 complaints, and they'll say the officer did something,
11 then you can look at the body camera and see what
12 actually happened, or vice versa. An officer might say
13 he did or didn't do something, and body cameras, we can
14 see what actually happened.

15 Q. So it kind of provides impartial evidence to
16 protect both the officer and civilians --

17 A. The citizen, yes.

18 Q. Thank you. And I understand that you fulfilled
19 that campaign promise; is that correct?

20 A. Yes.

21 Q. When did you obtain body cameras for the
22 officers?

23 A. I don't remember the exact date, but I want to
24 say it was in February or March. I don't know the
25 exact date. I can --

Sheriff Eric Pagan

1 Q. Of what year?

2 A. 2021.

3 Q. 2021. So --

4 MR. HEDGES: Wouldn't it have been
5 after the budget, though?

6 A. Yeah, after the budget. I just don't remember
7 the exact date.

8 MR. HEDGES: Our fiscal year is October
9 to October, so I suspect that it was actually 2022 if
10 you got them approved in your budget for '21.

11 THE WITNESS: Yeah.

12 BY MS. HEBERT:

13 Q. So you got body cameras for your officers
14 sometime in 2022; is that correct?

15 A. I think we've had them, I want to say, at least
16 ten months.

17 Q. So at least ten months, so counting back ten
18 months sometime in 2022 from today?

19 A. Uh-huh.

20 Q. Before then, did you have no body cameras at all
21 for the sheriff's officers?

22 A. Before I became sheriff, I couldn't -- they
23 didn't have it. As far as I know, they didn't have it.
24 When I came here, they didn't have it.

25 Q. Thanks. And let's watch a short clip from your

1 campaign before you were sheriff. Molly, I think you
2 were starting to play it a little bit earlier.

3 MS. HEBERT: We'll mark this exhibit as
4 Exhibit 2, Sarah.

5 [Exhibit 2 was identified.]

6 BY MS. HEBERT:

7 Q. So I'm going to show you this video. It's a
8 relatively short video clip, so we'll just watch the
9 entire thing.

10 [Clip was played.]

11 BY MS. HEBERT:

12 Q. Do you recall giving that interview?

13 A. Yes.

14 Q. Would it be fair to say that interview was from
15 sometime in 2020?

16 A. Probably 2019.

17 Q. 2019? Well, it'd be after the George Floyd
18 events which were in 2020 --

19 A. Yeah. Okay.

20 Q. So would it be fair to say that's sometime in
21 2020?

22 A. Yes.

23 Q. And you, in the film, you said something along
24 the lines of you believe that most officers are good.
25 I would agree with that. Do you still believe that

1 today?

2 A. Yes.

3 Q. And in the -- this footage of an interview, you
4 stated that it's not against the law to film an
5 officer. You have every right to film; is that
6 accurate?

7 A. Yes.

8 Q. And so before you became sheriff in 2021, you
9 knew that citizens had the right to film the police?

10 A. Yes.

11 Q. And you knew that the right to film the police
12 was protected by the first amendment?

13 A. Yes.

14 Q. And you also stated in the footage that you have
15 the right to be a certain distance away. What did you
16 mean by that?

17 A. A safe distance away.

18 Q. And how did you come up with that rule?

19 A. I didn't come up with the rule. It's just a
20 safe distance; what the officer feels is a safe
21 distance.

22 Q. Okay, and what is a safe distance away?

23 A. Depends on what the situation is, what's a safe
24 distance; a safe distance would be 50 feet, 40 feet, a
25 hundred feet, 200 feet. Whatever that officer feels is

1 a safe distance in that situation; depends on what the
2 situation is.

3 Q. Okay. And you talked about a Baytown example,
4 where people were filming the police from a hundred
5 feet away, and you said that the officers walked over
6 to them, "them" being the folks who were filming -- and
7 said, "Stop videoing. You in my crime scene", and the
8 officers were absolutely wrong. Why were those
9 officers wrong?

10 A. They had already, from what I can remember of
11 the Baytown is that -- I want to say a gas station,
12 store, something like that, they had made the arrest
13 and, from what I can remember, the officers went away
14 from the -- after they had that guy covered, went away
15 from them and then went over to the person that was
16 filming.

17 Q. Okay. So should the officers not have left the
18 person who was in handcuffs, then?

19 A. I'm saying that they had finished the arrest.
20 It was over with, so there was no reason for them to go
21 over to the guy that was filming.

22 Q. Oh, I understand. You advised kind of the
23 viewers of the interview that we just watched to tell
24 an officer who tries to stop them from filming that
25 they should tell the officer -- and I'm going to quote

1 -- "they have every right to record"; is that accurate?

2 A. Yes.

3 Q. And it seems like a natural variation on that
4 statement would be if an officer sees someone filming
5 and orders that person to leave, but does not order
6 anyone else, any other civilians to leave a situation,
7 that you should also tell that officer you have every
8 right to record; is that fair?

9 A. Yes.

10 Q. So I want to look at another exhibit. I'd like
11 to look at what's going to be marked Exhibit 3.

12 [Exhibit 3 was marked.]

13 BY MS. HEBERT:

14 Q. When you're done reviewing, just let me know.

15 A. Okay.

16 Q. Do you recognize this document?

17 A. Yes. Command chart.

18 Q. Excuse me?

19 A. Command chart.

20 Q. So it's a command chart of the sheriff's office?

21 A. Yes.

22 Q. And does it show the organization of the
23 sheriff's office?

24 A. Yes.

25 Q. And it looks like you're at the top, Sheriff

Sheriff Eric Fagan

1 Eric Fagan; is that correct?

2 A. Yes.

3 Q. And that means you're in charge of a lot of
4 people. Is that difficult?

5 A. Is it difficult?

6 Q. Uh-huh.

7 A. Yes.

8 Q. And it looks like you're in charge of the
9 operations bureau and the administration bureau; is that
10 correct?

11 A. Correct, yes.

12 Q. And there is no one above you; is that fair?

13 A. Yes.

14 Q. So does that mean, when you give orders,
15 everybody underneath this chain has to follow what you
16 say?

17 A. Yes.

18 Q. Even if some of these folks below you are
19 supervisors themselves?

20 A. Yes.

21 Q. And does that mean you have the authority to
22 override other officers' orders?

23 A. Yes.

24 Q. I'd like to walk through a couple of specifics
25 on this chart. In supervising the operations half of

1 the chart, do you supervise both the field operations,
2 the investigations command, and the detention command?

3 A. Yes.

4 Q. And then the administration side, do you see --
5 oversee the grants, the public information office, the
6 human resources, professional development and support
7 services?

8 A. I have to clarify this. I have people that I
9 delegate to do it, but I have the final say-so.

10 Q. Sure. That's helpful.

11 A. Okay.

12 Q. And so you oversee all the -- and, just to look
13 at a specific one, you oversee the public information
14 office, even though you might be supervising folks in
15 that office?

16 A. I don't personally supervise. I have people
17 delegated, but I have the final say, yes.

18 Q. Thank you. Before we continue, do you have any
19 supervisors? Who do you report to?

20 A. I don't report to anyone. I'm the sheriff.

21 Q. Okay. And before we continue, I want to kind of
22 look at your -- your responses to some of our requests
23 previously. I'm going to hand you another Exhibit that
24 we're going to mark Exhibit 4.

25 [Exhibit 4 was marked.]

1 BY MS. HEBERT:

2 Q. Let me know when you have a chance to look at
3 it.

4 MR. HEDGES: This was 4, Christy?

5 MS. HEBERT: Yes.

6 MR. HEDGES: And the org chart was 3?

7 A. Yes, sir.

8 Q. It took you a few minutes to review that
9 exhibit, correct?

10 A. Yeah, I've read it.

11 Q. Have you seen this exhibit before?

12 A. Yes.

13 Q. Did you review the answers to this document
14 before you produced them to our side to make sure the
15 answers were correct?

16 A. Yes.

17 Q. And did you do anything to prepare your
18 responses to that document, other than talk to Mr.
19 Hedges?

20 A. No.

21 Q. And did you review the July 12, 2021, press
22 conference video as part of answering those questions?

23 A. I don't know what video you're talking about.
24 Press conference?

25 Q. Sure. The video from Jones Creek Ranch Park?

1 A. Oh, yes. Watched it today.

2 Q. Did you review that video in answering these
3 questions?

4 A. No.

5 Q. Okay. And did you review videos of Justin
6 Pulliam's arrest from December 21, 2021, in answering
7 those questions?

8 A. No.

9 Q. Okay. I think you can move that to the side for
10 now, and we'll come back to that exhibit later.

11 I want to talk to you a little bit about Justin
12 Pulliam. You already admitted that you knew him before
13 July 2021. When did you meet Justin Pulliam?

14 A. The very first time I met Justin Pulliam, he was
15 in the parking lotting lot of the sheriff's office
16 filming me as I was parking my car -- trying to park to
17 get in, and deputies was stopping him from filming me,
18 so I told him to stop, I got out the car, told Justin
19 to wait till I park the car, come into the office. If
20 you want to talk to me, come in, sit down and talk with
21 me.

22 Q. That's fair. And do you remember about when
23 that was? Would January 11, 2021, sound familiar?

24 A. Yes.

25 Q. Okay. And how would you describe Justin Pulliam

1 to someone who was looking to pick him out of the
2 crowd?

3 A. Red-headed, about 5'6", a little chubby, white
4 male.

5 Q. Okay. We're going to look at some video of, I
6 think, that interaction. I'm going to mark that as
7 Exhibit 5.

8 MS. HEBERT: Molly, would you mind
9 pulling that up?

10 [Exhibit 5 was marked.]

11 [Video clip was viewed.]

12 BY MS. HEBERT:

13 Q. Thank you for watching that. So this video was
14 probably shortly after you took office?

15 A. Yes.

16 Q. In January of 2021?

17 A. I don't remember the date.

18 Q. And as we watch on this video, Justin asked you
19 about getting body cameras for your officers; is that
20 correct?

21 A. Yes.

22 Q. And you said that was one of the goals, correct?

23 A. That we were working on it.

24 Q. Yeah. And, as we saw on that video, did Justin
25 Pulliam tell you he wanted to be at press conferences?

1 A. Yes.

2 Q. And, as we watched this video, you said you
3 weren't the PIO -- which I believe stands for "public
4 information officer" --

5 A. Yes.

6 Q. So you said that you weren't the PIO?

7 A. Yes.

8 Q. But you said a little bit earlier that you
9 supervise the PIO.

10 A. Correct.

11 Q. And you said that you weren't afraid to speak to
12 anybody, correct?

13 A. Yes.

14 Q. And did you say that -- to Justin Pulliam that
15 if he wanted to speak to you, just you directly, fine?

16 A. Told him to contact the PIO; I believe that's
17 what I said.

18 Q. We can watch it again. Did you say to Justin
19 Pulliam that if he wanted to speak to you directly,
20 fine, you can do it directly?

21 A. If i said that, okay.

22 Q. We'll cue that up, Molly. I think it's towards
23 the end of the video.

24 [Video clip played.]

25 BY MS. HEBERT:

1 Q. When you said to Justin Pulliam if he wanted to
2 speak to you, "fine" -- to quote you directly -- is what
3 you said?

4 A. Yes.

5 Q. I know it might be a little bit difficult to
6 separate your thoughts on Justin Pulliam from now,
7 versus then, but do you have any memory of what your
8 perception was of Justin Pulliam back in the beginning
9 of 2021?

10 A. Same perception.

11 Q. And that is?

12 A. Redhead, white male.

13 Q. No, not physically. Just, like, perception of
14 his attitude, or his personality, any of like that, or
15 his reporting?

16 A. I don't think about Justin Pulliam one way or
17 the other, no.

18 Q. Are you familiar today with Justin Pulliam's
19 YouTube channel called "Corruption Report"?

20 A. Yes. I've seen some.

21 Q. Okay. And you've watched some of the videos
22 from Justin's YouTube channel?

23 A. Saw two of them, matter of fact, yes.

24 Q. And what were those two videos about? Do you
25 remember?

1 A. One when he was in my jail, this guy that was
2 following me, and then the other one was -- I forgot
3 what the other one's about, but I know I saw two of them
4 and after that, I quit watching.

5 Q. Sure. Do you remember when you watched those
6 videos?

7 A. No.

8 Q. Was it before today?

9 A. Yes.

10 Q. Was it before 2022?

11 A. Yes.

12 Q. Was it before mid-2021?

13 A. Don't know.

14 Q. And have you ever seen Justin Pulliam at a
15 police incident other than the incident at Jones Creek
16 Ranch Park in 2021?

17 A. No.

18 Q. And, in your experience, when you took office in
19 2021, was Justin Pulliam generally known to the
20 sheriff's office, to folks working in the sheriff's
21 office?

22 A. That's when I found out about it, when I became
23 sheriff, but the people at the sheriff's office knew
24 about him.

25 Q. And what did you learn from people at the

1 sheriff's office about Justin Pulliam?

2 A. People warned me about him, saying that he -- he
3 likes to come film people and try to catch people
4 off-guard, try to upset people, things like that.

5 Q. Did Justin Pulliam have a reputation of being
6 violent?

7 A. Not that I know of, no.

8 Q. Did he have any reputation of physically
9 attacking any officers?

10 A. Not that I know of, no.

11 Q. Did Justin Pulliam have a reputation of yelling
12 at officers or telling people at the scene of a incident
13 that they should lie or run away?

14 A. No.

15 Q. Okay. And did Justin Pulliam have any
16 reputation for physically altering evidence or changing
17 a scene?

18 A. No.

19 Q. And how has your perception -- you can say that
20 you don't really have a change of perception, but how
21 has your perception of Justin Pulliam changed from when
22 you first met him in the beginning of 2021 to today?

23 A. It hasn't changed.

24 Q. Okay. Before we get into the specifics of
25 looking at some of your general orders, can you tell me

1 what a general order of the sheriff's office is?

2 A. Rules and policies that officers must follow.

3 Q. And when you take office as the sheriff -- or
4 took office as the sheriff, do you review all of the --
5 kind of the policies and the general orders?

6 A. I go over them.

7 Q. Okay. And are there general orders on topics
8 other than public information and media relations and
9 social media that we might look at today?

10 A. That you -- I don't know what you're going to
11 look at today, so I can't answer that.

12 Q. Sure. I guess the broader question is: What's
13 the scope of things that general orders are on?

14 A. I'm not understanding your question.

15 Q. That's okay. What kind of topics do general
16 orders cover?

17 A. They cover a broad range of topics.

18 Q. Okay. Give me some examples.

19 A. Use of force, driving, officer safety, proper
20 procedures, jail; just a whole range of things.

21 Q. Okay, so trying to kind of cover most of the
22 topics that a front-line law enforcement officer, or
23 even supervisors, might have to interact with or deal
24 with on a day-to-day basis?

25 A. Okay.

Sheriff Eric Pagan

1 Q. Is that fair?

2 A. Yes.

3 Q. Are sheriff's employees expected to be aware of
4 general orders?

5 A. Yes.

6 Q. So do you presume that officers have knowledge
7 or know about kind of the substance of general orders?

8 A. Yes.

9 Q. And can you, as the sheriff, order a general
10 order to be altered or changed?

11 A. Yes.

12 Q. Have you ever done that?

13 A. Yes.

14 Q. And what was the context? Do you remember?

15 A. No.

16 Q. And how are general orders distributed to
17 sheriff's office personnel?

18 A. Through our e-mail.

19 Q. And is there any training that officers receive
20 to make sure that their behavior is consistent with a
21 general order?

22 A. I don't know if you call it training for the
23 general orders, but officers take in-service training --
24 have to take in-service training. They don't take
25 training over the general orders. They're expected to

1 read the general orders.

2 Q. Okay. And in-service training, does that come
3 from your office?

4 A. Comes from TCOLE.

5 Q. So the State of Texas law enforcement --

6 A. Yes.

7 Q. -- training is where they get their training?

8 A. Yes.

9 Q. And does the sheriff's office ever recommend
10 certain TCOLE courses?

11 A. Yes.

12 Q. All right, I'm going to hand you an exhibit that
13 we're going to mark Exhibit 6.

14 [Exhibit 6 was marked.]

15 BY MS. HEBERT:

16 Q. Would you mind reviewing this document, and then
17 when you've had a chance to look it over, just let me
18 know.

19 A. Okay.

20 Q. So it looks like the date on the top of this
21 general order is 2017 -- a date in 2017; is that
22 correct?

23 A. Yes.

24 Q. And what's the title of this general order?

25 A. "Public Information & Media Relations."

Sheriff Eric Pagan

1 Q. And have you seen this general order before?

2 A. Yes.

3 Q. And you're familiar with it?

4 A. Yes.

5 Q. And I understand 2017 was before you became
6 sheriff --

7 A. Correct.

8 Q. -- so you inherited, for lack of a better word,
9 this general order?

10 A. Uh-huh.

11 Q. And if I refer to this as the 2017 media
12 relations order, you'll know what I'm talking about?

13 A. (Witness nods head.)

14 Q. I'd like to look at another exhibit, and I'm
15 going to mark that Exhibit 7. Keep this 2017 order. We
16 might come back to that.

17 [Exhibit 7 was marked.]

18 BY MS. HEBERT:

19 Q. And is the title of this document the same as
20 Exhibit 6; "Public Information & Media Relations"?

21 A. Yes.

22 Q. What's the date at the top of this?

23 A. 10/1/2021.

24 Q. Okay, so this would be after you took office as
25 sheriff?

Sheriff Eric Pagan

1 A. Yes.

2 Q. Was this order approved by you?

3 A. Yes.

4 Q. And I'll look at, kind of one more order and
5 we're going to mark this as Exhibit 8.

6 [Exhibit 8 was marked.]

7 BY MS. HEBERT:

8 Q. Let me know when you're done.

9 A. Okay.

10 Q. Are you familiar with this document, Exhibit 8?

11 A. Yes.

12 Q. And is the top -- the title of this document
13 also "Public Information & Media Relations"?

14 A. Yes.

15 Q. And what's the date on this?

16 A. 12/29/2022.

17 Q. And this order replaced the document that was
18 marked as Exhibit 7; is that correct?

19 A. Yes.

20 Q. So I can refer to this as "the 2022 media
21 relations order" --

22 A. Yes.

23 Q. -- and you'll understand? And I can refer to
24 Exhibit 7 as "the 2021 media relations order"?

25 A. Yes.

1 Q. So let's go back to the 2017 media relations
2 order, and I think that's Exhibit 6.

3 A. Yes.

4 Q. Would you please look at the first page? Kind
5 of halfway down, looks like there's a "Definitions"
6 section, and there's a definition of "media." Do you
7 see where I'm talking about?

8 A. Yes.

9 Q. And I'm going to read that. "Media: Persons
10 associated with television, print, electronic, or radio
11 news programs/services and related entertainment
12 enterprises. For the purposes of this general order,
13 this term does not generally include social media", and
14 then there's parentheses. "This is defined and
15 governed under General Order 0504", and close
16 parentheses. Did I read that correctly?

17 A. Yes.

18 Q. And would you agree that this definition makes a
19 distinction between traditional media, such as
20 television, print and radio, and social media, on the
21 other hand?

22 A. Yes.

23 Q. And would you agree that, under this definition,
24 social media is excluded from the definition of
25 "media"?

1 A. Yes.

2 Q. Okay. And would you agree that this 2017 social
3 -- or media relations order, so this -- I'll say that
4 again. Would you agree that this 2017 media relations
5 order references the general order 0504 for social
6 media?

7 A. Yes.

8 Q. Let's go to the 2021 media relations order,
9 which was Exhibit 7. Did the definition of "media"
10 change at all from the 2017 order to the order that you
11 approved in 2021?

12 A. No.

13 Q. Thank you. And let's kind of ask the same
14 question for the order for 2022, which is Exhibit 8.
15 Did the definition of "media" change at all from 2017,
16 to 2021, to 2022?

17 A. No.

18 Q. So in all three orders, the definition of
19 "media" is the same?

20 A. Yes.

21 Q. And all three orders reference this general
22 order 0504 for the definition of "social media"?

23 A. Yes.

24 Q. Let's look at that, how social media's defined.
25 Let's go to Exhibit -- what's going to be marked Exhibit

1 9.

2 [Exhibit 9 was marked.]

3 BY MS. HEBERT:

4 Q. Would you review this document and let me know
5 when you're done?

6 MR. HEDGES: So this is 9, right?

7 MS. HEBERT: Yes, sir.

8 A. Okay.

9 Q. Are you familiar with this general order?

10 A. No, not really. No.

11 Q. Why is that?

12 A. I probably read it, but I don't remember it.

13 Q. Okay, so you probably read it in your course of
14 being sheriff; you just don't remember as you sit here
15 today?

16 A. Yes.

17 Q. Okay. Can we agree that this is the 0504 order
18 that is referenced in the media relations orders that we
19 just looked at?

20 A. No.

21 Q. Okay. Does this order, at the top say "0504"?

22 A. Yes.

23 Q. And let's go back to Exhibit 8. And in the
24 definition of "media", you see that parentheses, "This
25 is defined and governed under General Order 0504"?

1 A. Yes.

2 Q. And then let's flip back to Exhibit 9. Is this
3 General Order 0504?

4 A. Yes. I misunderstood you. I thought you meant
5 it was parenthesized there, and I was like, no it's
6 not.

7 Q. No, I understand. You're fine. I probably
8 asked a bad question. Is "social media" defined in
9 Exhibit 9, the General Order 0504?

10 A. Yes.

11 Q. And I'm going to read that definition, and you
12 tell me if I get it correctly. "Social media: Online
13 sources that allow people to communicate and share
14 information, such as photographs, texts, video,
15 multimedia files, and related items via online or
16 cellular network platforms. In this general order,
17 this also includes social networking platforms, but not
18 limited to Facebook, Twitter, YouTube, blogs..."; is
19 that correct?

20 A. Yes, that's what it reads, yes.

21 Q. And would someone who uses a YouTube channel
22 fall under the definition of "social media"?

23 A. For the person who wrote this, yes.

24 Q. Thank you. And let's look at Exhibit 10.

25 MS. HEBERT: Molly, would you mind handing

1 the Sheriff Exhibit 10?

2 [Exhibit 10 was marked.]

3 BY MS. HEBERT:

4 Q. Would you mind reviewing this document, Sheriff,
5 and letting me know when you're done?

6 A. Uh-huh. Okay.

7 Q. From the 2017 version that we looked at in
8 Exhibit 9 to this version in Exhibit 10, are you
9 familiar with Exhibit 10?

10 A. Yes.

11 Q. Is this the same order that we just looked at
12 for Exhibit 9, just updated to 2021?

13 A. Yes.

14 Q. And that's 0504; is that correct?

15 A. Yes.

16 Q. Would you look at the definition of "social
17 media" on this order?

18 A. Yes.

19 Q. And can you tell me if the definition of "social
20 media" has changed at all from 2017 to 2021?

21 A. No.

22 Q. And this order was issued while you've been
23 sheriff, correct?

24 A. Yes.

25 Q. Did you approve this order?

1 A. Yes.

2 Q. Now, looking at all five of the general orders
3 together that we just talked about, is it accurate to
4 say that, from 2017 to today, someone who films for a
5 YouTube channel does not fall under the definition of
6 "media" as defined by the sheriff's office?

7 A. Yes.

8 Q. Okay. Let's continue for a few minutes, and
9 then we'll take a break if that's okay with you.

10 A. Yes.

11 Q. I want to talk a little bit about your press
12 conference experience. I understand you took office in
13 2021, and that you had over 39 years of law enforcement
14 experience before becoming sheriff. Did you have
15 experience with press conferences before you became
16 sheriff?

17 A. Yes.

18 Q. And can you estimate how many press conferences
19 you've done in 39 years, or participated in, or
20 attended?

21 A. A lot.

22 Q. Over a hundred?

23 A. Yes.

24 Q. Over two hundred?

25 A. I don't know.

1 Q. So, ideally, somewhere between a hundred and two
2 hundred, maybe?

3 A. Maybe.

4 Q. Okay. And for those press conferences, did law
5 enforcement require the people to -- attending the
6 press conference to provide their credentials?

7 A. Yes.

8 Q. And what do those credentials look like?

9 A. They had them around their neck. They had the
10 station letters and, like, "Channel 13", "Channel 2",
11 whatever station they're from.

12 Q. And does every press person have their
13 credentials around their neck?

14 A. Yes.

15 Q. So every press person you've ever interacted
16 with in 39 years of law enforcement has been wearing
17 their credentials around their neck?

18 A. I don't know.

19 Q. In your experience, do you recall anyone being
20 excluded from a press conference because they weren't
21 media?

22 A. Yes.

23 Q. Do you recall anyone being excluded from a press
24 conference because they used social media?

25 A. No.

Sheriff Eric Pagan

1 Q. And after becoming sheriff, approximately how
2 many press conferences would you say you've attended or
3 participated in?

4 A. I don't know; fifty, sixty. I don't know; a
5 lot.

6 Q. That's fine. And does the sheriff's office have
7 a -- as you sit here today, does the sheriff's office
8 have a policy of asking for media credentials for
9 someone to attend a press conference?

10 A. I don't ask, and, like I said, they wear them
11 around their neck, and I see it.

12 Q. So you don't have a formal policy of asking to
13 see media credentials at press conferences?

14 A. No.

15 Q. I'd like to look at what I'm going to mark as
16 Exhibit 11.

17 [Exhibit 11 was marked.]

18 BY MS. HEBERT:

19 Q. And when you have a second to review that, let
20 me know when you're finished.

21 A. Okay.

22 Q. Okay, and I'll represent to you that these are
23 the county's -- Fort Bend County's responses to our
24 requests for admissions. Have you seen this document
25 before?

1 MR. HEDGES: I think these are
2 production.

3 BY MS. HEBERT:

4 Q. Excuse me. Request for production. You're
5 right. They are why don't we take a break right now,
6 then? Do you mind?

7 A. No.

8 MS. HEBERT: Let's take a brief
9 intermission. Sarah, would ten minutes, fifteen minutes
10 work for you?

11 COURT REPORTER: That's fine.

12 MS. HEBERT: We'll take a break for
13 fifteen minutes.

14 COURT REPORTER: Off the record at 9:58.

15 [Short recess was taken.]

16 COURT REPORTER: We're back on the record
17 10:13.

18 BY MS. HEBERT:

19 Q. Before we get to this lovely exhibit that Amy
20 has printed for us, let's go back a little bit. We were
21 talking about your press conference experience,
22 Sheriff.

23 A. Okay.

24 Q. And you talked a little bit about being on the
25 mayor's security detail, and you had experience with

1 kicking folks out of press conferences; is that
2 correct?

3 A. Uh-huh.

4 Q. Can you tell me a little bit about who gets
5 kicked out of a press conference, based on your
6 experience on the mayor's security detail?

7 A. On the security detail, a individual who was
8 disruptive -- not a media person, but a disruptive
9 person, something like that, we might have to escort
10 out.

11 Q. And what does a disruptive person look like?

12 A. Someone yelling and screaming during a press
13 conference, someone who's trying to rush up on the stand
14 where the mayor is, something like that.

15 Q. And would you, when someone was yelling and
16 screaming, would you give that person a warning to
17 stop?

18 A. Yes.

19 Q. And then if they did not comply with that
20 warning, would you remove them?

21 A. Yes.

22 Q. And is there any difference between an indoor
23 press conference versus an outdoor press conference?

24 It would seem like to me that maybe an indoor press
25 conference is where maybe there was something taking

1 place at the mayor's office, and there would be a
2 couple of differences; for instance, there might not be
3 enough space, or that there were going to be security
4 concerns that you have to vet people beforehand. So
5 would it be fair to say there's a difference between
6 indoor and outdoor press conferences?

7 A. Yes.

8 Q. And do you have different security concerns for
9 indoor press conferences?

10 A. Yes.

11 Q. And different space concerns for outdoor press
12 conferences?

13 A. Yes.

14 Q. And outdoor press conferences may or may not
15 have space constraints?

16 A. Depending on the situation.

17 Q. Okay. Let's turn to what is being marked as
18 Exhibit 12.

19 [Exhibit 12 was marked.]

20 BY MS. HEBERT:

21 Q. This is the exhibit that I meant to introduce
22 earlier when we talked about Exhibit 11, so if you
23 wouldn't mind reviewing, Sheriff, Exhibit 12, and let me
24 know when you've had a chance to review this exhibit. I
25 won't ask you about all of it.

Sheriff Eric Pagan

1 A. Do I need to read all of it?

2 Q. I won't ask you about all of it, but we can --

3 A. If I need to read all of it, I will, but if I
4 don't need to read all of it, I won't.

5 Q. Sure. How about this general question: Are you
6 familiar with this document?

7 A. Yes.

8 Q. And how are you familiar with this document?

9 A. I answered the questions.

10 Q. Okay. Let's go to No. 7, which I believe is on
11 page 4; so the bottom of page 4.

12 And I'll read this so it's clear on the record.

13 "Admit that on July 12, 2021, FBCSO had no policy of
14 asking for media credentials and restricting press
15 conferences to those with media credentials before
16 making statements intended for public dissemination."

17 And the response there was "deny." So has -- a
18 follow-up question: Has the sheriff's office changed
19 its policy on media credentials since July 12, 2021?

20 A. No.

21 Q. So earlier today, you testified that the
22 sheriff's office does not have a policy for asking folks
23 attending press conferences for media credentials. In
24 light of that conversation, would you change your answer
25 to Request for Admission No. 7?

1 A. No. I can clarify what I mean by that. Like,
2 when I was telling -- most people from the press, when I
3 see them, they have credentials around their neck, so I
4 never needed to ask for it.

5 Q. Okay, but this request for admission is talking
6 about asking. So did the sheriff's office have a policy
7 of asking for credentials?

8 A. No.

9 Q. When you do see media credentials around
10 someone's neck, how do you evaluate their authenticity?

11 A. They being with a camera person that has
12 credentials, as well, and the credentials, like I said,
13 has the letters of the -- KHOU or -- I'm just thinking
14 off the top of my head, the letters and channel number.

15 Q. So you look to see if someone has credentials
16 around their neck and if they're with a camera person?

17 A. Yes.

18 Q. Anything else?

19 A. No.

20 Q. Okay. Since becoming sheriff, do you recall any
21 press conference other than the events at Jones Creek
22 Ranch Park on January -- July 12, 2021? Other than
23 that press conference, do you recall any press
24 conference since becoming sheriff, where someone was
25 asked to leave or excluded?

1 A. No.

2 Q. In the course of your 39-year career as law
3 enforcement, have you seen members of the media --
4 traditional media or otherwise -- push the boundaries
5 of what's news by reporting on, maybe, personal or
6 sensitive issues?

7 A. I'm not understanding the question.

8 Q. Sure. For example, have you seen members of the
9 media show up at some event that might be insensitive
10 for them to report -- for instance, a funeral or where
11 there was a victim?

12 A. Yes.

13 Q. And, in your experience, after such -- I'll call
14 this less-than-courteous behavior, were those members of
15 the media excluded from press conferences?

16 A. You asked first showing up. I don't think
17 that's discourteous, just showing up.

18 Q. Sure. So maybe my question was less than
19 artful. If someone was being disrespectful at a press
20 conference in general, would they be excluded from
21 future press conferences?

22 A. If they -- if they were being disrespectful
23 where it would cause an incident to happen, yes.

24 Q. Okay, so if a member of the media disrupts a
25 press conference today, you would expect to exclude

1 them from future press conferences?

2 A. No. It -- every situation -- how can I put
3 this? It depends on what happened at that situation.
4 I can't exclude somebody because they did something one
5 day, and I'm going to expect them to do the same thing
6 the next day. I won't do that, no.

7 Q. Okay, sure. And let's say a member of the media
8 tried to question a victim who was obviously distraught,
9 and an officer said no, no, no, you need to get back to
10 this victim, and then you were holding a press
11 conference later that day. Would you exclude that
12 member of the media?

13 A. It depends.

14 Q. Okay.

15 A. Because -- if someone -- it depends on the
16 situation. If it's a act of violence or something like
17 that's going to happen, yes, I'm going to exclude them,
18 but asking a question, no.

19 Q. Okay. So based on what I think your answer is,
20 it -- if the media person posed a threat of violence,
21 you would exclude them?

22 A. If the family member pose a threat of violence
23 towards the media person or vice versa, I'm going to
24 separate them.

25 Q. You'd separate them, okay. And regardless of

1 kind of the justification, have you ever, other than
2 the events on July 21st, 2021, ever moved a media
3 person away from a press conference to a distance other
4 than the press conference?

5 MR. HEDGES: I think you misspoke about
6 the date, Christy.

7 MS. HEBERT: I'll rephrase. Thanks.

8 BY MS. HEBERT:

9 Q. Other than July 12, 2021, the day of the Jones
10 Creek Ranch press conference, other than that day, have
11 you ever moved a media person or a person attending a
12 press conference to some physical distance away from the
13 press conference?

14 A. Never had to, no.

15 Q. And I'd like to kind of get into the specific
16 events of July 12th, 2021, at Jones Creek Ranch Park,
17 and I'm sure you remember that, on that day, a vehicle
18 was discovered submerged in the water, and,
19 unfortunately, someone was discovered deceased in that
20 vehicle. Do you remember that?

21 A. Yes.

22 Q. And I'd like to walk you through some of your
23 admissions on that day. You previously -- and this is
24 Exhibit 4. We can look at No. 4.

25 So we're looking at Exhibit 4, which is your

1 response to request for admissions. I'm going to look
2 at page 3, number 4, and in this request for admission,
3 your response was you admitted that you closed the park
4 in connection with an investigation, and then number 7,
5 which is page 4, you admitted that there were certain
6 people who remained after in the park, and that there
7 were other individuals in the park previously who were
8 recording, press folks who were recording; is that
9 correct?

10 A. Yes.

11 Q. Let's go back to your admission number 8 which
12 is also on page 4, and I'm going to read this one.
13 "Admit that on July 12, 2021, you did not ask any person
14 either in or outside of Jones Creek Ranch Park for
15 documentation to prove his or her identity as a member
16 of the media." Your response was, "Admitted. Media
17 that was there displayed their credentials, so that I
18 did not need to ask to see their credentials." Is that
19 accurate?

20 A. Yes.

21 Q. And what did you mean by "the media displayed
22 their credentials"?

23 A. They had a lanyard around their neck.

24 Q. Let's look at some footage from the press
25 conference that day, and we're going to mark this

1 footage as Exhibit 13.

2 [Exhibit 13 was marked.]

3 Q. And I'll represent to you that this footage was
4 taken by my client, Justin Pulliam, on July 12, 2021,
5 using various cameras. You'll see how the four panels
6 put together. You might be familiar with kind of some
7 of the footage that you reviewed with your attorney,
8 Mr. Hedges, and some of it's from a cellphone, a body
9 camera, a higher-resolution camera that he had on a
10 tripod, and a dash camera. Molly, would you pull that
11 up and we'll watch from timestamp 3:28 to 4:29.

12 [Clip was played.]

13 Q. Thank you, Molly. Were there four other people
14 in this clip of the footage other than Justin Pulliam?

15 A. Yes.

16 Q. And did you allow all these four folks to remain
17 in this area for the press conference that happens after
18 this?

19 A. I don't remember.

20 Q. Let me rephrase this. Did you have any of those
21 four escorted away from the press conference?

22 A. No.

23 Q. And after reviewing this footage, can you tell
24 me where the media credentials of these folks were
25 displaying were located?

1 A. If you go back to when I first arrived at the
2 park, I believe they had the cameraman with them, and
3 they had the credentials on them. This was after they
4 found the body, so maybe I'm assuming that they had to
5 -- because I'm used to seeing it around the necks, but
6 I'm -- they had the credentials earlier. That's what
7 I'm thinking. I may be wrong. If I am, I was wrong.

8 Q. Okay, so your testimony is you're not sure if
9 they were displaying their credentials. They may have
10 displayed them earlier --

11 A. I think they would -- yes.

12 Q. But there are no credentials in this footage we
13 see here?

14 A. No.

15 Q. Okay. And if we review other footage, we might
16 see the credentials?

17 A. Yes.

18 Q. But at this press conference -- or at this media
19 area, to be more precise, that the sheriff's office had
20 designated, none of those four folks were displaying
21 credentials?

22 A. Correct.

23 Q. Let's go back to your RFAs, which are Exhibit 4,
24 and we'll look at page 5, and we'll go down to number 9
25 just at the top. I don't think I need to read this,

1 but you admitted that there were two news crews present
2 in the parking lot outside of the Jones Creek Ranch
3 Park on July 12, 2021; is that correct?

4 A. Yes.

5 Q. And were these four folks that we just watched
6 in the video clip with this timestamp ending at 4:29,
7 the two news crews, you admitted were present in the
8 parking lot?

9 A. I believe so, yes.

10 Q. Have you ever ordered members of a TV news crew
11 to be ex -- to leave a press conference?

12 A. No.

13 Q. Let's skip to another portion of the video.

14 MS. HEBERT: Molly, would you minute
15 cuing up timestamp 6:26 to 6:34?

16 BY MS. HEBERT:

17 Q. And, Sheriff, I know there's four panels, so it
18 might be helpful, most clear to pay attention to the
19 panel in the upper left corner.

20 [Clip was played.]

21 Q. Did you see what looked like a golf cart or a
22 Gator pull up to the media area?

23 A. Yes.

24 Q. Were you in that golf cart?

25 A. Yes.

1 Q. And who was with you?

2 A. One of my deputies.

3 Q. Would it be accurate to say Detective Hartfield,
4 is his title?

5 A. Okay.

6 Q. Well, we can look at the footage, but you're
7 familiar with Detective Hartfield?

8 A. Yes.

9 Q. How tall would you estimate Detective Hartfield
10 is?

11 A. 5'9", 5'10".

12 Q. And how much would you estimate Detective
13 Hartfield weighs?

14 A. Never thought about it. I don't know. I just
15 need to see the video, I guess, then.

16 Q. Sure.

17 MS. HEBERT: Let's play a little
18 bit further ahead, Molly, from 6:53 to 6:58. We might
19 have to go back, but we'll look at that.

20 [Clip was played.]

21 Q. All right, it's a little hard to see, but in the
22 bottom left corner, is that Detective Hartfield?

23 A. Yes.

24 Q. And, refreshing your memory, would you estimate
25 how much he might weigh? Over two hundred pounds?

1 A. I'll say about 210, 215.

2 Q. That's fair; and where were you and Detective
3 Hartfield coming from?

4 A. Inside the park.

5 Q. Inside Jones --

6 A. -- Ranch Park.

7 Q. And where, exactly, inside the park?

8 A. I don't remember.

9 Q. Were you by the creek where the car was
10 discovered?

11 A. Yeah, I was there earlier, but where we left
12 from exactly then, I don't know.

13 Q. Sure. How far would you estimate the creek was
14 from the front of this -- from the parking lot in the
15 front of this park?

16 A. A hundred yards? I don't know.

17 Q. It would be fair to say it's some distance away,
18 that you had to take a Gator?

19 A. Yes.

20 Q. And what did you and Detective Hartfield discuss
21 on the way over on your ride in the Gator?

22 A. Don't know.

23 Q. Did you say anything about Justin Pulliam?

24 A. Probably did, yes.

25 Q. Do you remember the gist of what you had said?

1 A. Yes. Probably told them if he was there, keep
2 him away from the rest of the media.

3 Q. Did you give Detective Hartfield a reason why?

4 A. I don't remember, but my reason was that the
5 media was complaining about him earlier.

6 Q. When you arrived at this media area, who was
7 there?

8 A. Myself, the deputy, my PIO officer, Jacqueline
9 Preston, Justin Pulliam, and those -- and the other
10 media people.

11 Q. So when you said Jacqueline Preston, is that
12 your PIO officer?

13 A. Yes.

14 Q. Okay. Just making sure. So we are paused --
15 Molly, can you show the timestamp? We're paused at
16 7:01, and in the bottom left corner --

17 MS. HEBERT: Molly, can you move your
18 mouse off --

19 BY MS. HEBERT:

20 Q. In the bottom left corner that woman with a
21 light blue shirt --

22 A. Yes.

23 Q. -- is she your PIO officer?

24 A. Yes.

25 Q. And what was she doing there?

1 A. Just there; any media outlet, my PI director
2 comes out.

3 Q. Do you recall if she spoke at the press
4 conference?

5 A. No, I don't recall.

6 Q. Let's go back and 7:53 to 7:05 a little bit and
7 we'll look specifically at the --

8 MR. HEDGES: Say that again. What
9 timestamp?

10 MS. HEBERT: Sure. 6:53 to 7:05.

11 MR. HEDGES: Thank you.

12 BY MS. HEBERT:

13 Q. And, Sheriff, if you wouldn't mind focusing on
14 the top right-hand panel.

15 [Clip was played.]

16 Q. And what was Justin Pulliam doing in this clip
17 of the footage?

18 A. Walking up to the rest of the media.

19 Q. And did he set down a camera on a tripod?

20 A. Yes.

21 Q. Did Justin Pulliam say anything to you?

22 A. No.

23 Q. Did Justin Pulliam say anything at all?

24 A. Not that I can remember, no.

25 Q. And did you say anything to him?

1 A. No.

2 Q. All right, let's return to Exhibit 4 again and
3 look at your responses to the request for admission.
4 We'll go to page 5, with number 10; and would you mind
5 reading that? I don't think I'm going to read it out
6 loud.

7 A. You want me to read it out loud, or just read it
8 --

9 Q. No, just read it.

10 A. Okay.

11 Q. And you said -- your response was, "I admit that
12 I said words to that effect." Let's watch the same
13 portion of the video that we just watched, 6:53 to 7:05,
14 and we may need to crank up the volume a little here,
15 because I know you hear Justin's feet walking, but let's
16 listen for what you said, and I think the best panel is
17 the bottom left panel.

18 [Video clip played.]

19 BY MS. HEBERT:

20 Q. Okay, now having reviewed the relevant portion
21 of the video, did you say to Detective Hartfield, "If
22 you don't do it, arrest him, because he's not part of
23 the local media, so he has to go back", with "he" and
24 "him" referring to Justin Pulliam?

25 A. Yes.

1 Q. And why did you say that Justin Pulliam was not
2 a part of the local media?

3 A. Like I said -- oh, why did I say he's not part
4 of the local media?

5 Q. Yeah.

6 A. Because he's not.

7 Q. Okay. By saying, "If he don't do it, arrest
8 him", were you authorizing Detective Hartfield to
9 arrest Justin Pulliam if he did not move away from the
10 mead?

11 A. No.

12 Q. So if Justin had said, "No, I'm not moving
13 back", would you have expected Detective Hartfield to
14 arrest him?

15 A. No.

16 Q. Okay. Would you have -- so you wouldn't have
17 ordered Detective Hartfield to order -- you wouldn't
18 have ordered Detective Hartfield to arrest Justin
19 Pulliam if he refused?

20 A. No. You're forgetting what I'm answering
21 earlier. Justin Pulliam had got into it with the media
22 earlier that day, and with the family that day. I
23 wanted to make sure the confrontation wouldn't happen.
24 If Justin Pulliam would have stayed there and erupted
25 again with the media or have conversation, then I would

1 expect him to be arrested.

2 Q. Okay. Let me just write that down.

3 So when you said to Detective Hartfield, "If he
4 don't do it, arrest him", you were referring to moving
5 back, correct?

6 A. Yes.

7 Q. So you were saying: If he don't do it, if he
8 don't move back, arrest him, to Detective Hartfield?
9 That's what you're saying?

10 A. What I meant by, like I said earlier, Justin had
11 got into it with --

12 Q. I don't think you're answering. Listen to the
13 question. When you said, "If he don't do it", you were
14 referring to move back, correct?

15 A. Yes.

16 Q. And you were telling Detective Hartfield that if
17 he don't do it, if he don't move back, arrest him?

18 A. Yes.

19 Q. And do you -- an arrest is a pretty serious
20 thing, correct?

21 A. Yes.

22 Q. And the threat of arrest is a pretty serious
23 thing?

24 A. Yes.

25 Q. Do you normally go around telling your officers

1 to arrest someone if they don't do something and not
2 actually mean it?

3 A. No.

4 Q. So when you tell someone if you give -- when you
5 give an order to arrest an individual, you would expect
6 your officer to arrest that individual?

7 A. Yes.

8 Q. And if Justin Pulliam had said, "I have the
9 right to record the police", like you recommended in the
10 2020 interview, would you have expected Hartfield to
11 arrest him?

12 A. Just for recording, no.

13 Q. But for refusing to step back?

14 A. Yes.

15 Q. Let's go back to Exhibit 4, your responses to
16 the RFAs, specifically number 10 on page 5 that we
17 already looked at. Now I want to look at the second
18 half of your response. You said, "Admit that I also
19 said that plaintiff had five minutes to leave the
20 taped-off investigation area." Had Justin Pulliam
21 crossed any police tape that day?

22 A. We put up police tape. Yes.

23 Q. So he'd crossed police tape --

24 A. No. We put up police tape. He was in the area
25 already.

1 Q. Okay, so let me make sure I understand that.
2 The sheriff's office put up police tape. Did Justin
3 ever cross that police tape in a way that was entering
4 the area that he was not supposed to be in?

5 A. No.

6 Q. So he never entered an area after it had been
7 set off?

8 A. No.

9 Q. And, ultimately, even if, you know, he expressed
10 some reluctance or some criticism, did Justin Pulliam
11 leave the area that you told him to leave, the
12 taped-off investigation area?

13 A. Yes.

14 Q. And your answer here was that, "I also said that
15 plaintiff had five minutes to leave." Did you give
16 anyone else a five-minute time frame to leave the
17 investigation area?

18 A. Didn't have to.

19 Q. And what do you mean by that?

20 A. I didn't need to. No one else would -- gave me
21 a reason to give that order to. Just him.

22 Q. Okay. Let's look at number 7. I Exhibit 7?

23 A. Page 7 or the response to the --

24 Q. Number 7, page 4. On the same exhibit, which is
25 Exhibit 4. I'm going to read this. "Admit that on July

1 12, 2021, as seen beginning at 1:20 on July 12, 2021,
2 video footage, you told Lieutenant Simmons that after
3 five minutes --

4 MR. HEDGES: This is different than
5 what I've got.

6 A. Yeah. I'm not seeing it. You said page 4 --

7 Q. I'm reading the wrong one. You're right. Page
8 4, number 7. I was reading number 5, excuse me. Admit
9 that -- I'm going to read this again. Request number
10 7, page 4, "Admit that on July 12, 2021, as seen
11 beginning at 1:56 on July 12, 2021, video footage, you
12 allowed individuals other than plaintiff Justin Pulliam
13 to continue recording the activities of FBCSO officers
14 in Jones Creek Ranch Park while personally escorting
15 Justin out of the park." Your response was, "Admitted
16 that certain employees of the district attorney and
17 sheriff's office may have continued to film after the
18 park was closed. Otherwise, deny. Admitted, however
19 that not all people at the park, including those
20 filming, were able to leave at exactly the same time."
21 Did I read that correctly?

22 A. Uh-huh.

23 Q. Were there people who were filming the taped-off
24 investigation area after Justin Pulliam was told to
25 leave?

1 A. Yes.

2 Q. I'm going to use an exhibit -- I think this is
3 No. 14 that we are on now.

4 MS. HEBERT: Molly; would you mind
5 handing the Sheriff what is marked as Exhibit 14.

6 [Exhibit 14 was marked.]

7 MS. HEBERT: And, Sheriff, would you
8 mind reviewing this.

9 A. Uh-huh. Yes.

10 Q. Is this you in the picture? It looks like
11 you're there four times -- or three time, given the
12 panel --

13 A. Yes.

14 Q. And it looks like you're looking at your watch;
15 is that correct?

16 A. Yes.

17 Q. Is this the point where you were telling
18 plaintiff, Justin Pulliam, to leave the park within five
19 minutes?

20 A. Yes. Not leave the park, leave that area.

21 Q. Thank you. So this is the time that you were
22 telling Justin Pulliam to leave that area within five
23 minutes?

24 A. Yes.

25 Q. And it looks like there are some people behind

1 you in that photo. What are those people doing?

2 A. Filming.

3 Q. And are these, looks like maybe three people
4 employees of the district attorney?

5 A. Don't know.

6 Q. Are these people employees of the sheriff's
7 office?

8 A. Dolly is. Dolly Simon, the one in front of me.

9 Q. What about the three folks behind you?

10 A. I don't know who they are. Look like a
11 cameraman and look like a female. That's all I can see.

12 Q. And what's the female wearing?

13 A. Pants.

14 Q. What color?

15 A. Black or blue.

16 Q. And the shirt?

17 A. Don't know; green. I don't know.

18 Q. Some kind of dark color; is that fair?

19 A. Yes.

20 Q. And what is the cameraman wearing?

21 A. Plaid shirt.

22 Q. And just behind the cameraman, can you see a
23 little bit of pink over his shoulder?

24 A. No.

25 Q. You don't see any pink there?

1 A. No.

2 MS. HEBERT: Molly, would you mind
3 going to Exhibit 13, and going to timestamp 4:29.

4 MR. HEDGES: 4:39?

5 MS. HEBERT: 29.

6 MR. HEDGES: Thank you.

7 MS. HEBERT: Sure.

8 BY MS. HEBERT:

9 Q. And looking at both the still shot of what's at
10 timestamp 4:29 of Exhibit 13 --

11 MS. HANIS: 4:31?

12 Q. Okay, now, looking at the still shot of what's
13 at timestamp 4:31 of Exhibit 13, and comparing that with
14 what's at Exhibit 14, is that the same gentleman in the
15 plaid shirt?

16 A. I believe so.

17 Q. And is that the same woman in the dark outfit,
18 for lack of a better descriptor, leaning against the
19 vehicle there?

20 A. I believe so.

21 Q. So -- and you testified earlier that these four
22 folks shown at 4:29 and now 4:31 were the two news crews
23 that you admitted were present?

24 A. Yes.

25 Q. And so you would say that you believe that the

1 folks standing behind you in Exhibit 14 are news or TV
2 crews?

3 A. Yes.

4 Q. Thank you. I'd like to just follow up and ask
5 why did you tell Lieutenant Simmons or Simons -- is it
6 "Simmons" or "Simons"?

7 A. Simons.

8 Q. Why did you tell Lieutenant Simons to arrest
9 Justin Pulliam if he did not leave the park within five
10 minutes?

11 A. He'd just had -- when I got there, I was told
12 that he'd just apparently gotten into a altercation with
13 one of the family members, and one of the family members
14 wanted to attack Justin Pulliam, and, in fact, I was
15 told that one of the family members slapped the camera,
16 or phone, or something out of Justin Pulliam hand, and
17 they had to physically restrain the two apart, so I
18 wanted him away from them.

19 Q. Okay. And is that one of the reasons you asked
20 the press, media folks, to leave the park?

21 A. No.

22 Q. Why did you ask the press and media folks to
23 leave the park?

24 A. I never asked anyone to leave the park.

25 Q. Okay. To go to the designated media area. Is

1 that one of the reasons you asked the media to go to the
2 designated media area at the other end of the parking
3 lot?

4 A. That was after the car came up and the body was
5 found. I told him I would speak to him over there,
6 because I didn't want to speak to him over there by the
7 family.

8 Q. So you wanted to speak to the press and media
9 away from the family?

10 A. Yes.

11 Q. So you designated a media area at the parking
12 lot?

13 A. Yes.

14 Q. And how far away from the family was the
15 designated media area?

16 A. It was far.

17 Q. Okay. A mile?

18 A. No. It wasn't a mile, no. Couple of blocks.

19 Q. Couple of blocks away, okay. Let's go back to
20 your RFAs, which are Exhibit 4.

21 A. Exhibit 4?

22 Q. Yes, sir. And let's turn to page 6, and let's
23 look at number 13. I'll just read your response, here,
24 rather than the whole admission, but if you wouldn't
25 mind just reviewing the question. "Admit that I

1 ordered Deputy Hartfield to move plaintiff a short
2 distance away, based on plaintiff's conduct earlier that
3 day. I deny that the reason was so that plaintiff could
4 not participate in the news conference." Did I read
5 that correctly?

6 A. Yes.

7 Q. And what did you mean by "based on plaintiff's
8 conduct earlier that day"?

9 A. Getting in a altercation with the family
10 members, and getting in a altercation with the rest of
11 the news media.

12 Q. Okay. And although you're talking about an
13 altercation with the family and an altercation with the
14 news media, the only reason that you provided Detective
15 Hartfield why he needed to move Justin Pulliam back
16 from the press conference was because Justin was not
17 media, correct?

18 A. You said that's the only reason I told
19 Hartfield?

20 Q. Yes.

21 A. Maybe. I don't know. I could have told him
22 about the altercation. He's the one that told me about
23 the altercation.

24 Q. He's the one that told you about the
25 altercation?

1 A. Yeah. That happened before I got there.

2 Q. Sure. So let me just kind of break all of that
3 down. At some point when you arrived at Jones Creek
4 Ranch Park, Deputy/Detective Hartfield -- he was kind of
5 in a deputy capacity, right?

6 A. Yes.

7 Q. So, at some point when you arrived at Jones
8 Creek Ranch Park, Deputy Hartfield told you there had
9 been an altercation?

10 A. I don't know which deputy told me that. Could
11 have been Hartfield or Simons. One of my deputies told
12 me --

13 Q. Okay, so some deputy told you there had been an
14 altercation, you didn't witness said altercation
15 between Justin Pulliam and the family, personally?

16 A. Correct, yes.

17 Q. And when you gave Deputy Hartfield the order to
18 move Justin back, the only reason you gave him that
19 order, at the time, was because Justin was not media,
20 correct?

21 A. No.

22 Q. You gave another explanation?

23 A. The reason I did it was because of the
24 altercation earlier. I didn't have to explain that to
25 my deputy why I wanted that all taking place. That was

1 my reasoning.

2 Q. Okay, let's look at request for admission number
3 11, and that is on page number 5. Let's read that.

4 "Admit that on July 12, 2021, as seen beginning at 15:50
5 on July 12, 2021, video footage, you did not identify
6 any reason for instructing FBCSO officer Robert
7 Hartfield to move plaintiff Justin Pulliam back from the
8 designated media area, other than plaintiff Pulliam is
9 not part of the local media, and you responded, "Admit."

10 So, to confirm, you didn't tell Deputy Hartfield
11 that he needed to move Justin away from the media area
12 based on Justin's behavior that day?

13 A. Yes.

14 Q. I don't think that answer was particularly
15 clear, so let's -- let me rephrase that. You did not
16 tell Detective Hartfield that he needed to move Justin
17 away from the media area based on Justin's behavior
18 earlier that day?

19 A. Yes. I don't know what you want me to answer.
20 I did tell him to move back. Yes, I did.

21 Q. Okay, and when did that conversation occur?

22 A. It wasn't a conversation. I told him to move
23 him back.

24 Q. Okay. I understand that you may have had this
25 other justification for moving plaintiff Pulliam back,

1 but I'm specifically asking what you told Detective
2 Hartfield, and when you gave Detective Hartfield the
3 order to move Justin Pulliam back, you did not say,
4 verbalize, "move Justin back because of his behavior
5 earlier today"?

6 A. No.

7 Q. You did not make a verbal statement to Detective
8 Hartfield that he needed -- that Detective Hartfield
9 needed to move Justin Pulliam back because Justin had
10 done something?

11 A. I don't think so, no.

12 Q. Did you tell anyone else that Justin's behavior
13 had been problematic so that you needed to remove him
14 from the media area?

15 A. I was told that his behavior was problematic.
16 His -- that the altercation had taken place, so I
17 already knew that, so that's why.

18 Q. Okay, so you didn't tell anybody, "We need to
19 remove Justin from the media area because of an
20 altercation"?

21 A. No.

22 Q. Okay. And are you aware that Detective
23 Hartfield relayed your explanation almost word-for-word
24 to Justin himself in moving Justin back from the media
25 area?

1 A. He could have.

2 Q. Okay. Let's look at the relevant portion of the
3 video.

4 MS. HEBERT: Molly, would you go to
5 7:28, and we'll watch until 7:44.

6 Q. And, Sheriff, I think the bottom left panel is
7 probably the best one to look at?

8 [Clip was played.]

9 BY MS. HEBERT:

10 Q. Detective Hartfield didn't say anything about
11 Justin Pulliam's behavior earlier in the day, did he?

12 A. What are you asking me?

13 Q. So, in ordering Justin to step back from the
14 media area, did Detective Hartfield say anything about
15 Justin Pulliam's behavior earlier in the day?

16 A. I don't know if he was the one that told me
17 about the altercation, if that's what you're asking. He
18 could have. I don't know.

19 Q. Sure, sure. That's not what I'm asking. I'm
20 not asking about your conversation with Detective
21 Hartfield. I'm asking about the conversation that we
22 just saw from 7:28 to 7:44. It's not really a
23 conversation. It's just the order that Detective
24 Hartfield gave, so, to rephrase, I'm asking you about
25 the order that Detective Hartfield gave to Justin

1 Pulliam and that order occurred from 7:28 to 7:44. In
2 giving that order to Justin Pulliam to step back, did
3 Detective Hartfield say anything about Justin's
4 behavior earlier in the day?

5 A. When you say "earlier in the day", that's the
6 whole day before that --

7 Q. Yeah.

8 A. -- so if he's the one that told me about the
9 altercation, then yes. I don't remember who told me
10 about the altercation.

11 Q. I understand that.

12 A. So I can't answer that question a hundred
13 percent honestly. I don't remember.

14 Q. Yeah, and I'm not asking about what Detective
15 Hartfield said to you. I'm asking about this
16 conversation right here between Detective Hartfield and
17 Justin Pulliam, so let me ask the question --

18 A. What's confusing me, you keep putting "earlier
19 that day." Well, earlier that day is that whole day,
20 so if he said something about that altercation, then
21 yes, he did. If he -- so I can't answer that a hundred
22 percent.

23 Q. Sure. I'm going to look at your response to
24 request for admission number 13 that we just looked at,
25 and your response was "Admit that I ordered Deputy

1 Hartfield to move plaintiff a short distance away, based
2 on plaintiff's conduct earlier that day."

3 A. Yes.

4 Q. I'm using your language.

5 A. Yes.

6 MS. HEBERT: And, Molly, would you mind
7 cuing up 7:28 to 7:44 again.

8 [Clip was played.]

9 BY MS. HEBERT:

10 Q. So the only reason that Detective Hartfield said
11 to Justin Pulliam for the reason he was escorting
12 Justin Pulliam back from the media area was because
13 Justin was not media; "at the sheriff's request, could
14 you step back this way"?

15 A. Yes, that's what he said, yes.

16 Q. And that's the only thing that Detective
17 Hartfield said to Justin Pulliam in that moment?

18 A. In that moment, yes.

19 Q. Okay, so Detective Hartfield didn't say anything
20 like, "Justin, you've been disruptive. Please step
21 back", correct?

22 A. No.

23 Q. Detective Hartfield didn't say anything like,
24 "You've been rude to the family of the deceased. Please
25 step back"?

1 A. No.

2 Q. At any point on July 12, 2021, did Justin
3 Pulliam refuse to follow orders issued by sheriff's
4 office personnel, that you know of?

5 A. No.

6 Q. Had Justin Pulliam made any threats that he was
7 going to attack you or other people --

8 A. No.

9 Q. -- that you know of.

10 A. No.

11 Q. I'm sorry, I stepped on you a little bit, there.
12 Had Justin Pulliam made any threats that he was going to
13 attack you?

14 A. No.

15 Q. Had Justin Pulliam made any threats that he was
16 going to attack anyone else?

17 A. No.

18 Q. Sometimes we think back to what happened in the
19 past, and we, like, come up with other reasons why that
20 action made sense at the time. So, is that kind of
21 what happened here? After the dust settled and you had
22 time to think about it, it made sense to ask Justin to
23 leave based on his behavior earlier in the day, even
24 though you didn't say it at the time?

25 A. It made sense to me then.

1 Q. Okay, it made sense to you at the time. So
2 other than the interactions with the family that we've
3 talked about a little bit, and some kind of altercation
4 with other members of the media, and then the third
5 item of Justin not being media, was there any other
6 reason that you ordered Detective Hartfield to escort
7 Justin Pulliam back from the media area?

8 A. No.

9 Q. So just those three, kind of, reasons?

10 A. Yes.

11 Q. So, to confirm, your testimony under oath is
12 that on July 12, 2021, you had a secret reason -- the
13 media altercation and the family altercation, for your
14 order to move Justin Pulliam back from the media area
15 that you didn't tell Detective Hartfield in giving him
16 the direct order, and that wasn't used to explain to
17 Justin Pulliam why he needed to leave the media area?

18 MR. HEDGES: Object to the form. It's
19 argumentative.

20 A. It was not a secret.

21 Q. Okay.

22 A. That was my reason, but it wasn't a secret.

23 Q. But you didn't tell anybody else?

24 A. I didn't tell -- I was told about the situation,
25 so Hartfield knew about it already. I'm just saying I

1 don't know if it was Hartfield that told me about it or
2 not, so if he's the one that told me about it, then he
3 knew.

4 Q. But you didn't explain your rationale to anybody
5 about why you were excluding Justin from the media
6 area?

7 A. No.

8 Q. Let's watch another portion of the video,
9 timestamp 7:44 to 8:53.

10 [Clip was played.]

11 Q. Did Detective Hartfield and Deputy Garcia escort
12 Justin Pulliam away from where you were going to hold
13 the press conference?

14 A. Yes.

15 Q. And Justin estimated there that he was ten
16 parking spots back from where you were going to hold
17 the press conference. Was that about accurate, give or
18 take?

19 A. I believe, yes.

20 Q. And what if Detective Hartfield had only moved
21 Justin Pulliam back two feet from the press conference
22 area? Would that have been far enough for your order?

23 A. Yes. I didn't tell him how far back to move
24 him; just move him back.

25 Q. Okay, so if he had moved Justin Pulliam two feet

1 back from where he'd set up his tripod, that would have
2 complied with your order?

3 A. Moving back, yes, it would have complied. I'm
4 not going to say I'd be satisfied with it, though, but
5 yeah, it would have complied.

6 Q. It would have complied with, maybe, the
7 technical words of your order, but not the spirit of
8 your order?

9 A. Correct.

10 Q. And in the spirit of your order, where did you
11 want Detective Hartfield to move Justin Pulliam?

12 A. Far enough away that he wouldn't be interfering
13 with the other news media, but not so far away where he
14 couldn't see it or film it.

15 Q. Okay. That's fair. We are paused on timestamp
16 8:54, and would you mind looking at the two panels on
17 the left; and you see the man in the black shirt
18 standing kind of closest to Justin Pulliam? Is that
19 Detective Hartfield?

20 A. I believe so.

21 Q. And did you see -- if we need to go back, we can
22 go back a little bit. Is that where Detective
23 Hartfield walked after escorting Justin Pulliam back?

24 A. I'm looking at it now, yes.

25 MS. HEBERT: Let 's go back just a

1 couple of seconds, Molly, just so we can follow
2 Detective Hartfield's path.

3 [Clip was played.]

4 Q. And now we're paused on 8:44, which is a little
5 bit earlier, but did you see Detective Hartfield walk
6 from where he had escorted Justin Pulliam to this point
7 where he's standing?

8 A. Yes.

9 Q. And is Detective Hartfield standing in between
10 the media area and Justin Pulliam?

11 A. Yes.

12 Q. Let's go back to your RFAs, and that is Exhibit
13 4; and we're going to look at number 13 and look at the
14 second half of your response to number 13.

15 You said, "I deny that the reason was so that
16 plaintiff could not participate in the news
17 conference." And you have the same sentence in response
18 to request for admission number 14 at the end. I deny
19 the reason that Deputy Garcia walked with plaintiff was
20 so that plaintiff could not participate in the news
21 conference, and you have a similar for the next page,
22 number 16. "I deny the reason was so that plaintiff
23 could not participate in the news conference." Can you
24 explain your reason for having Justin Pulliam moved
25 away from the press conference if the purpose wasn't to

1 prevent Justin from participating in the press
2 conference?

3 A. Earlier, when I stated he had a confrontation
4 with the news media and the family before. The same
5 reason.

6 Q. Sure. And when you arrived at the media area,
7 you had identified four folks who were news media
8 present in the parking lot. Was any member of the
9 deceased's family present in the parking lot?

10 A. No.

11 Q. Were any of the family members near the parking
12 lot?

13 A. No. Not that I know of, no.

14 Q. Sure. So then why was moving Justin further
15 back from the press conference respectful to the
16 members of the deceased's family?

17 A. I didn't say that. I said because of the
18 confrontation he had with the media.

19 Q. With the media?

20 A. With the media.

21 Q. Okay, so you moved Justin back just because of
22 the confrontation that he had had with the media?

23 A. Yes.

24 Q. And tell me a little bit more about this
25 confrontation with members of the media.

1 A. I wasn't there when the confrontation happened.
2 I was told by members of the media.

3 Q. Who on the media told you about this
4 confrontation?

5 A. One of the females.

6 Q. And which -- can you tell me which female it
7 was?

8 A. No.

9 Q. Okay. Let's go to 7:15, Molly, on Exhibit 13 in
10 the video.

11 MR. HEDGES: 7:15?

12 MS. HEBERT: Yes.

13 MR. HEDGES: Thank you.

14 BY MS. HEBERT:

15 Q. So there are two -- in this video clip, there
16 are two women who introduced themselves as members of
17 the media. There's the one in pink and then the one
18 we'd looked at previously, which was in dark clothing.
19 Do you remember which one of the ladies told you that
20 they had had an altercation with Justin?

21 A. No.

22 Q. And it looks like both of these women introduced
23 themselves. Did you recall meeting them before?

24 A. Yes.

25 Q. Can you tell me about that?

1 A. It was at the park when I first got there
2 earlier.

3 Q. Okay, so you had had some kind of interaction
4 with them at the park earlier?

5 A. Yes.

6 Q. And, just for the record, you didn't ask either
7 of these two ladies for their credentials?

8 A. No. I don't think I did, no.

9 Q. And you were telling me a little bit about one
10 of these ladies saying to you that they had some kind of
11 negative interaction with Justin Pulliam.

12 A. Yes.

13 Q. Can you tell me kind of what you remember about
14 that conversation, the substance of it?

15 A. No.

16 Q. Do you remember where that conversation
17 occurred?

18 A. At the park.

19 Q. Where at the park?

20 A. By the creek.

21 Q. Okay, so somewhere by the creek, one of these
22 ladies spoke to you about Justin Pulliam?

23 A. Yes.

24 Q. And you can't remember the substance of that
25 conversation?

1 A. Some type of altercation. It was -- they was
2 telling me about the -- they also told me about the
3 altercation with the family, and that he's not a part
4 of the media, he's making it difficult for us, he's
5 embarrassing us, he won't -- they said something about
6 he won't listen. He's fussing and stuff; exactly what
7 they said, I don't remember.

8 Q. That's okay, but you've given me the general
9 gist --

10 A. Yes.

11 Q. -- which is fine. If -- and it seems like the
12 general gist of the media's complaint was that he
13 wasn't media and he wasn't acting very professional; is
14 that fair?

15 A. Yes.

16 Q. So why didn't you give Justin Pulliam a warning
17 of, look, Justin, you need to be professional and
18 courteous, here, and hold your comments to the end, or
19 not speak to the other media members, before ordering
20 Detective Hartfield to escort Justin away from the press
21 conference?

22 A. He's not my employee.

23 Q. Okay. Earlier today, we talked a little bit
24 about press conferences before you were sheriff, and
25 you mentioned that if someone was going to be -- was

1 being really disruptive -- was yelling, or screaming,
2 or threatening the press conference, you would give
3 them a warning before you escorted them out of the
4 press conference. Why wouldn't you give the same kind
5 of warning here? "Justin don't disrupt the press
6 conference."

7 A. Because those are the rules I had to follow as a
8 officer with the Houston Police Department, was the
9 orders that I was given.

10 Q. So they're not your kind of rules today?

11 A. No.

12 Q. So, today, as we sit here, do you have a general
13 rule that if someone shouts something in a press
14 conference, you're going to remove them immediately?

15 A. Depends on the situation.

16 Q. What does it depend on?

17 A. Violence, act of violence.

18 Q. Okay. And Justin hadn't threatened you at all

19 --

20 A. No.

21 Q. -- before you removed him?

22 A. No. Never said that, no.

23 Q. And, to your knowledge, had Justin threatened
24 any members of the media?

25 A. No.

1 Q. And the complaint that you received from one of
2 the members of the media, did that member of the media
3 say anything about Justin potentially being violent?

4 A. No.

5 Q. You admitted previously that you made statements
6 at this press conference on July 12, 2021, outside of
7 -- at the front of Jones Creek Ranch Park; is that
8 correct?

9 A. Yes.

10 Q. And, for clarification, why did you give the
11 statement in this press conference, rather than your
12 PIO?

13 A. Can --

14 Q. Sure. Why did you lead the press conference,
15 rather than your public information officer?

16 A. Because I was there.

17 Q. Because you were there. So if you're onsite,
18 you're going to give the press conference, rather than
19 the PIO?

20 A. Correct.

21 Q. And that's typical?

22 A. Yes.

23 Q. At the July 12th press conference, were the
24 reporters there, the four reporters we've previously
25 identified, able to ask you questions?

1 A. Yes.

2 Q. And was Justin Pulliam able to ask you questions
3 at all during this press conference?

4 A. If he wanted to.

5 Q. Were you able to hear Justin Pulliam said from
6 where he had been moved --

7 A. Yes.

8 Q. -- at the part of the parking lot?

9 A. Yes.

10 Q. What did you recall Justin Pulliam saying?

11 A. Nothing.

12 Q. So he didn't say anything? You were able to
13 hear him?

14 A. Yes.

15 Q. So your position is that Justin asked -- if
16 Justin asked a question, you would have heard him from
17 where he was standing?

18 A. Yes. And I even told Justin, after this, if he
19 wanted to speak to me, he could.

20 Q. And when was that?

21 A. When they -- earlier, because I'm the one that
22 told him where we were going to.

23 Q. Yes, okay, so before the press conference, you
24 told Justin that you were all going to the designated
25 media area?

1 A. Yes.

2 Q. And then at the press conference, you did not
3 speak to Justin Pulliam directly?

4 A. No.

5 Q. And if Justin had asked a question from where he
6 was located, approximately ten parking spaces back from
7 where you were, you would have answered it?

8 A. Yes.

9 Q. And so, to make sure he was being heard, would
10 you have shouted the answer to your question down to him
11 at the end of the parking lot?

12 A. Yes. If I had to, yes.

13 Q. So it is your position that you believe that
14 Justin Pulliam could have fully participated, just like
15 all the other members of the media, from where he was
16 located?

17 A. Yes.

18 Q. Let's watch another portion of the video.

19 MS. HEBERT: Molly, would you mind
20 cuffing up Exhibit 13, 8:53 to 9:06.

21 [Clip was played.]

22 BY MS. HEBERT:

23 Q. From this portion that we watched, can you tell
24 if you had started the press conference yet?

25 A. Can I tell?

1 Q. Yes.

2 A. No.

3 MS. HEBERT: Let's watch an earlier
4 portion of the video, 7:15 to -- we already watched
5 this. We'll skip this. Let's skip to another portion
6 of the video, of Exhibit 13. Let's start at timestamp
7 15:17, Molly, so we'll skip to Exhibit 13, timestamp
8 15:17, and we'll watch to the end of the video, 15:59.

9 Q. And, Sheriff, I think that the top left panel
10 might be the best to look at.

11 BY MS. HEBERT:

12 Q. On the video clip that we just watched, can you
13 hear what you said at the end of the press conference?

14 A. No.

15 Q. And it looks like you got in a golf cart, or the
16 Gator, for lack of a better descriptor, with Detective
17 Hartfield, and drove off. Is that what happened at the
18 end?

19 A. Yes.

20 Q. And where did you guys go?

21 A. Probably back to my car.

22 Q. Did you discuss Justin Pulliam with Detective
23 Hartfield on that drive back away from the press
24 conference?

25 A. I don't recall.

1 Q. Did you say anything like, "Man, that Justin
2 Pulliam's a real jerk."

3 A. Don't recall.

4 Q. Sure. After the press conference, did you
5 create any kind of written document, such as an incident
6 report or an e-mail, saying that you had to remove
7 Justin Pulliam from the press conference?

8 A. Don't remember doing that.

9 Q. Okay. What about a formal text -- or a
10 less-formal document, like a text message. Did you have
11 to text anyone and say, "Hey, just heads up: I asked
12 that Justin Pulliam be escorted away from the press
13 conference."

14 A. Don't remember doing that.

15 Q. That's okay. And after the press conference,
16 was there any sort of investigation about your decision
17 to move Justin Pulliam away from the press conference?

18 A. Not to my knowledge, no.

19 Q. And I think that's probably a good time for a
20 break.

21 MR. ROWES: A lunch break.

22 MS. HEBERT: Yeah, let's take a lunch
23 break. What time is it now?

24 MR. HEDGES: 11:26.

25 MS. HEBERT: So how about like 12:45,

1 for come-back. Give everybody enough time to get
2 lunch.

3 [Lunch recess was taken from 11:26 a.m. till 12:43 p.m.]

4 COURT REPORTER: Back on the record,
5 12:43.

6 BY MS. HEBERT:

7 Q. Okay, we are coming back from lunch. I'm
8 probably going to take the snooze button and go through
9 some of the policies, so bear with me as we kind of go
10 through some of the paperwork this afternoon. Kind of a
11 general question: Earlier, we talked a little bit
12 about TCOLE. Can you explain to me what "TCOLE" stands
13 for?

14 A. Texas Law Enforcement -- gosh, you would have
15 asked me that.

16 Q. Sorry. I'm not trying to put you on the spot.

17 MR. HEDGES: Texas Commission on Legal
18 -- Texas Commission on Law Enforcement.

19 BY MS. HEBERT:

20 Q. So Texas Commission on Law Enforcement. So,
21 "TCOLE" stands for "Texas Commission on Law
22 Enforcement", okay. And does the sheriff's office do
23 any independent training? Do you guys provide training
24 to your office?

25 A. We have an academy.

1 Q. You have a Fort Bend County Sheriff's Office
2 academy?

3 A. Uh-huh.

4 Q. And is that for before you become an officer?

5 A. It's an academy -- many agencies. We have
6 Richmond, Sugar Land -- anybody who want to be a police
7 officer, they have go through an academy, and that's a
8 State-certified academy, but it's under my office.

9 Q. All right, so it's a precursor to becoming an
10 officer, the academy?

11 A. Yes.

12 Q. And not all of the folks who go to your
13 sheriff's office academy become officers at Fort Bend
14 County?

15 A. No.

16 Q. They go --

17 A. Yeah.

18 Q. -- all sorts of places?

19 A. Yes.

20 Q. Other than the academy, so putting the academy
21 as a precursor to becoming an officer aside, does the
22 sheriff's office host or hold independent training?

23 A. Yes. States mandate that officers have to have
24 at least 40 hours, and we do all of that.

25 Q. Okay, so you do more than 40 hours; and the

1 sheriff's office provides its own training sessions?

2 A. Yes, but they have to be TCOLE-approved. I just
3 can't just give a training session just to be giving a
4 training session. It wouldn't count for nothing. Have
5 to be TCOLE approved.

6 Q. Right. So they have to be TCOLE so the officers
7 get credit, presumably?

8 A. Right. Correct.

9 Q. And do you -- do you develop those -- does the
10 sheriff's office develop those trainings independently
11 an then go get TCOLE approval?

12 A. Some classes are independently made, but the
13 class courses have to be approved by TCOLE.

14 Q. And some courses, I would guess --

15 A. Come straight from the --

16 Q. -- (interruption) straight from TCOLE --

17 A. Correct.

18 Q. And does the sheriff's office, if it's not going
19 to provide a training directly, recommend certain
20 trainings from TCOLE. For example, to just clarify what
21 I mean, you say to Detective Hartfield, "Detective
22 Hartfield: We want you to take X, Y, and Z courses this
23 year."

24 A. Yes, you can do that.

25 Q. And you, independently as the sheriff, might say

1 to an officer, hey, I attended this training. It was
2 really good. You should attend it?

3 A. Yes, I can do that.

4 Q. Are officers with the sheriff's office trained
5 by the sheriff's office on how to interact with members
6 of the media?

7 A. I didn't understand the question. Does -- TCOLE
8 approved the class that they have to take; media
9 relations.

10 Q. So let me just unpack that and make sure I
11 understand what you're saying. There's a TCOLE class
12 that the sheriff's office recommends -- requires
13 officers to take that is media relations?

14 A. Yeah. I don't recommend it. It's required by
15 TCOLE.

16 Q. So there is a class that TCOLE requires all
17 officers across the state of Texas, called "media
18 relations", that they have to take?

19 A. I don't know what it's called, but I know you
20 have to take a class on media.

21 Q. I mean, the specific title is -- we can let that
22 go. There's some class that the State of Texas
23 requires every officer to take that has to do with
24 media?

25 A. Yes.

1 Q. And have you taken that class?

2 A. Yes.

3 Q. And you would presume that all of your -- your
4 officers have taken that class?

5 A. Yes.

6 Q. And would that class be on their training record
7 from TCOLE, then?

8 A. Yes.

9 Q. So if an officer took some kind of media class,
10 it would be on whatever training record TCOLE provides
11 officers?

12 A. Yes.

13 Q. Do you know what the main takeaways are of the
14 training for officers on interacting with media?

15 A. No.

16 Q. Do you know if -- are your sheriff's officers
17 trained on how to balance concerns like safety with
18 First Amendment rights?

19 A. Yes.

20 Q. What does that training look like? What are the
21 main takeaways of that?

22 A. When you go through the academy, you have the
23 course.

24 Q. And what does that course teach the officers to
25 do?

1 A. To protect people's freedom of speech, and
2 things like that. That's something I had when I was --
3 when I went through the academy. You're talking
4 something over forty years ago. I don't remember the
5 class. I know I had it --

6 Q. That's okay. I don't remember what I had for
7 breakfast, so it's -- I entirely understand that you
8 don't remember something that you did forty years ago.
9 So today's sheriff's academy in Fort Bend County -- the
10 academy that you guys run today, is there a training
11 that y'all provide today that includes some kind of
12 media relations aspect?

13 A. I'm sure it is. I don't teach at the academy,
14 but I know there's a course that they have to go through
15 that, yes.

16 Q. So if there was an officer who's looking -- or a
17 person who's looking to become an officer today through
18 the Fort Bend County Sheriff's Office training program,
19 the academy, they would receive some kind of training
20 from your office saying: Hey, this is how you deal with
21 media.

22 A. I'm sure -- yes.

23 Q. Based on your kind of long experience, you know,
24 30-plus years of being a law enforcement officer, how do
25 free speech rights differ for members of the media

1 versus, like, your average citizen?

2 A. Well, on, like -- I'm not really sure of the
3 question you're asking me. I mean, everyone has the
4 freedom of speech. It doesn't differ, but if you mean
5 access, well, you have that different. Media can come
6 into places where a average citizen can't come in.

7 Q. Okay, so if I'm understanding your statement
8 correctly, freedom of speech is the same for everybody,
9 but there's a difference in access?

10 A. Yes.

11 Q. And how do you -- how does the sheriff's office
12 control that access? How do you determine who gets to
13 have access to the information as a media -- as a member
14 of the media?

15 A. Well, I'm not sure what you're asking me. Like,
16 do I pick and choose what media come in?

17 Q. Yeah, I guess -- we just talked about that
18 there's a difference in access to information based on
19 those folks who are media, versus your Average Joe on
20 the street, and I was just wondering how you kind of
21 determine that. How you determine what access, like,
22 your average person on the street gets, versus someone
23 who's part of the media.

24 A. I'm not sure -- like, when I first became
25 sheriff, I had a press conference where I had all the

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1 law enforcement agencies come talk about school safety
2 -- active shooters and school safety. I invited all the
3 media to come. At that meeting, people from all
4 different newspaper outlets, radio, TV, Justin Pulliam,
5 was there at that meeting, so everyone had access. No
6 citizen -- I didn't see a person -- like, my next-door
7 neighbor or somebody like that. No, they couldn't have
8 came in, but anybody can come in. Like I said, even
9 Justin Pulliam came to that. I didn't stop him then.

10 Q. Okay, so, just to be clear, if your next-door
11 neighbor had said, "Hey, Sheriff Fagan, I want to come
12 to this school shooting press conference", he could
13 have come?

14 A. No.

15 Q. It was exclusive to people who were part of the
16 media?

17 A. Yes, because it was going into a secure place in
18 my office; my media room.

19 Q. And someone like Justin Pulliam or someone else
20 who was, like, filming for their YouTube channel, how
21 did you check to determine they were media to come into
22 your office?

23 A. Like, when I first got here, people told me
24 about Justin Pulliam here at the sheriff's -- they had a
25 negative opinion about him. I didn't know the guy.

1 Never met him before in my life, so it didn't really
2 affect me one way or the other. I told them let him in.
3 I didn't have a problem with it.

4 Q. Okay, thanks.

5 We talked a little bit about the right to film
6 the police previously? How are folks from the
7 sheriff's office trained on folks who are filming the
8 police, generally?

9 A. They're told that people have the right to film.
10 It's not my -- you have the course -- in the academy
11 class, you have that course.

12 Q. And do you recall -- the answer to this might be
13 no. Are there any materials that are provided -- you
14 know, sometimes I go to trainings -- law, education
15 trainings, and they give us, like, a PowerPoint, and
16 then you have the PowerPoint to review, or there's a
17 PowerPoint that, you know -- if I call them up and say,
18 "Hey, there's a PowerPoint you can send me later", are
19 there any materials that are part of this training for
20 training officers on how to film the police, or how to
21 interact with people filming the police, to be more
22 precise?

23 A. I wouldn't know. I mean, there's information
24 they have to take. Whoever teaches the class will have
25 to answer that question. I don't know.

1 Q. Okay, so there could be, you know, PowerPoint
2 presentation or worksheets, or whatever, that someone
3 who teaches the class on media relations, or how to
4 interact with the public that say when you film the
5 police, you should do -- or when someone's filming the
6 police, you should do X, Y, and Z?

7 A. Yes.

8 Q. I'd like to look -- let's look at what should be
9 marked as Exhibit 15.

10 [Exhibit 15 was marked.]

11 BY MS. HEBERT:

12 Q. And, Sheriff, would you mind reviewing this
13 document and letting me know when you're ready?

14 A. Okay.

15 Q. What is this document?

16 A. It's a general order on arrests and
17 investigatory stops.

18 Q. And was this order issued during your tenure as
19 sheriff?

20 A. Yes.

21 Q. Did you review it?

22 A. Yes.

23 Q. I want to look at the section titled "Core
24 Principles", and there's four core principles listed
25 here. The first is "Sanctity of human life." The

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1 second is, "De-escalation"; the third is "Procedural
2 Justice"; and the fourth is "Fair and Impartial Policy."
3 Did I get those right?

4 A. Yes.

5 Q. And would you say that these four principles
6 were something that -- are something that you, as the
7 sheriff, stand behind, generally?

8 A. Yes.

9 Q. So when you took office in 2021, these were four
10 principles that you would say were policy of the
11 sheriff's office?

12 A. Yes.

13 Q. So even though the date on this general order
14 looks like it's February 2022, you would say these core
15 principles predated this general order?

16 A. Yes.

17 Q. Let's look at what I'm going to mark Exhibit 16.

18 [Exhibit 16 was marked.]

19 MS. HEBERT: That would be, Molly, from
20 our index, P.

21 [Exhibit 16 was marked.]

22 BY MR. HEBERT:

23 Q. While Molly's getting that, sheriff, would you
24 mind looking at Exhibit 15 at the top? The order from
25 2022 says, "Replaces or modifies GO #09-03, dated

1 8/15/2015." Did I read that correctly?

2 A. Yes.

3 Q. Let's look at Exhibit 16; and what is this?

4 A. Traffic enforcement.

5 Q. And is this a general order?

6 A. Yes.

7 Q. What's the date on this general order?

8 A. August 15, 2017.

9 Q. And what's the number?

10 A. GO 09-03.

11 Q. So is this general order that is at Exhibit 16
12 the order that Exhibit 15 -- 09-10 -- was replacing?

13 A. Yes.

14 Q. And this 2017 order looks like it just governed
15 traffic enforcement; is that correct?

16 A. Yes.

17 Q. And the 2022 order looks like it was the title
18 is "Arrests & Investigatory Stops." Am I reading that
19 right?

20 A. Yes.

21 Q. So before the 2022 order was issued, did the
22 sheriff's office have a general order that governed
23 arrests?

24 A. Before the 2022?

25 Q. Yeah.

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1 A. Yes. I'm sure they did, yes.

2 Q. So is there probably out there a written general
3 order on arrests that would have been governing 2017?

4 A. I would think so, yes.

5 Q. And even if there wasn't a general order out
6 there on arrests, would you say that the sheriff's
7 office had a policy on arrests --

8 A. Yes.

9 Q. -- in 2017?

10 A. Yes.

11 Q. Okay. I want to walk through Exhibit 15, so you
12 can put Exhibit 16 away. I don't think we're going to
13 look at that again. Let's go back to those four core
14 principles, and one of those core principles is
15 "de-escalation." I'm going to read that principle.
16 "All FBCSO employees shall use de-escalation techniques
17 and tactics to reduce any threats or gain compliance to
18 lawful commands without the use of force or with the
19 lowest possible" -- "with the lowest level of force
20 possible." Did I read that correctly?

21 A. Yes.

22 Q. Sorry. I messed up a little bit, there. What
23 does de-escalation look like?

24 A. Trying to calm a situation down.

25 Q. Okay. And, so as part of de-escalation, would

1 you expect that an officer's going to try to defuse the
2 situation as much as possible?

3 A. Correct.

4 Q. And maybe -- does that -- does defusing a
5 situation mean that maybe if the stakes are low -- not
6 a high-stakes crisis situation, but if the stakes are
7 low, you can give someone a warning as, like, the first
8 step, before arresting them, for example?

9 A. Yes.

10 Q. And if there was an order, you might give them a
11 warning to comply with the order before taking a more
12 severe action?

13 A. You try to do it in a continuum. You know,
14 steps.

15 Q. So talk to me a little bit about the continuum.
16 Keep in mind that I'm not familiar with the law
17 enforcement arena.

18 A. That's the officer's discretion. That's an
19 individual officer, what I might do or another officer
20 might not do, so I can only tell you from my viewpoint
21 what I would do, because everybody thinks differently.

22 Q. Of course, yeah. And so what might be, like,
23 step A on your continuum might be, like, step A.2 on Joe
24 Officer B's continuum, right?

25 A. My continuum is verbal -- just verbal; second,

1 hands on; step three, arrest.

2 Q. And is that continuum consistent with your
3 training and experience?

4 A. Yes.

5 Q. And do you know if your officers are trained to
6 kind of follow that continuum?

7 A. To de-escalate, yes.

8 Q. To try to use verbal first?

9 A. Yes.

10 Q. Followed by some kind of hands-on, maybe
11 escorting, maybe putting your hands literally on
12 someone? Is that kind of the second step, as I
13 understand?

14 A. Uh-huh.

15 Q. You're going to have to say yes --

16 A. I'm sorry, yes.

17 Q. And then third step might be, kind of, arrest or
18 citation?

19 A. Yes, and then it's all the way up.

20 Q. Right. Proactively, how do you ensure that your
21 officers are carrying out the de-escalation policy?

22 A. Watching the body cameras.

23 Q. So do you, like, spot-check the body cameras to
24 just see how -- like, how things are going?

25 A. Yes, I have someone that does that, and then if

1 something goes wrong, they bring it to my attention.

2 Q. So is that review of body camera footage
3 independent of a complaint being made?

4 A. Yes.

5 Q. So you're already looking at the body camera
6 footage before someone ever, you know --

7 A. In some cases, yes.

8 Q. I mean, obviously, you can't review hundreds of
9 hours of body camera footage every day. That would be
10 incredible and require a number of resources.

11 A. That's impossible.

12 Q. Right. You're spot-checking?

13 A. Yes.

14 Q. Okay. Let's go back to the core principles
15 again, and I want to look at that Procedural Justice
16 piece, and this is, again, in Exhibit 15. I'm going to
17 read the Procedural Justice section. "Procedural
18 justice is defined as the fairness of processes used by
19 those in positions of authority to reach specific
20 outcomes or decisions. Procedural justice is based
21 upon four central principles -- treating people with
22 dignity and respect, giving citizens a voice during
23 encounters, being neutral in decision-making, and
24 conveying trustworthy motives. I want to ask about
25 giving citizens a voice during encounters. What do you

1 mean by that?

2 A. Hear what they have to say.

3 Q. So does that mean a citizen can voice a
4 complaint about an order, for example?

5 A. Yes. They have a right to ask a question, yes.

6 Q. So not only can they voice a complaint; they can
7 also ask a question?

8 A. Yes.

9 Q. And can a citizen assert a right in response to
10 a police order? So here's an example: Let's say, you
11 know, Mr. Hedges is walking down the street and an
12 officer comes at him from nowhere and says, "Mr. Hedges,
13 can I search your backpack?" Mr. Hedges says, "No. I
14 have the right to refuse to search." Can a citizen like
15 Mr. Hedges do that?

16 A. Yes.

17 Q. Would Mr. Hedges or any other citizen have
18 committed an offense by asserting that right?

19 A. No.

20 Q. How are sheriff's officers trained to give voice
21 to citizens during an encounter?

22 A. Their academy class.

23 Q. And what, like -- rather than just the mechanism
24 of training, what's the methodology? What are the
25 officers instructed to do?

Sheriff Eric Pagan

1 A. Follow the law.

2 Q. I understand that, but when -- how are the
3 officers trained so that they can give voice to
4 citizens during encounters?

5 A. That's the de-escalation. You're going back to
6 de-escalation.

7 Q. Okay. Has the sheriff's office ever disciplined
8 some of its officers or any of its officers for failing
9 to de-escalate a situation?

10 A. Yes.

11 Q. What did that look like?

12 A. It varies.

13 Q. Okay. Tell me more. What is the range of
14 discipline --

15 A. Termination.

16 Q. Okay. To, maybe, a counseling session, like:
17 Joe, you've really got to handle the situation better.

18 A. Yeah, oral or written, all the way up to
19 termination.

20 Q. Okay. The other parts of procedural justice --
21 treating people with dignity and respect, being in
22 control of decision-making, conveying trustworthy
23 motives -- can you discuss in broad strokes how you
24 expect officers to achieve those things?

25 A. Just treat people with respect. I tell my

1 officers when I speak to them, you want to treat people
2 the way you treat your mother, your brother, your
3 sister, like that.

4 Q. So kind of in achieving these core principles,
5 you would expect your officers to talk to citizens,
6 have citizens talk to them, engage in conversation?

7 A. Yes.

8 Q. I want to talk about active scenes with
9 potential shooters. In general, when a sheriff's
10 officer arrives on a -- at an incident or a scene with a
11 potential shooter, what should be the officer's first
12 steps?

13 A. Safety.

14 Q. Tell me about that. How do they ensure safety?

15 A. Take cover, get positioned, make sure there's no
16 one in the line of fire.

17 Q. So the first step would be take cover, get in
18 position; and then the second would be check to make
19 sure no one's in the line of fire?

20 A. Yes.

21 Q. And then what would you expect the officer to
22 do?

23 A. To conduct the investigation.

24 Q. Okay. And then, you know, radio what's kind of
25 going on on the ground, when it was safe to do so?

1 A. What resources do they need? Is this person a
2 CIT? Is this person someone that needs mental help, or
3 is it just someone that we need to get S.W.A.T. out
4 there? So it varies.

5 Q. Okay, and I don't want to put words in your
6 mouth, but let me summarize. The first step is to take
7 cover and make sure your position is safe; the second
8 stuff is kind of line of fire, make sure other people
9 are safe; and then the third step is to do
10 investigation and/or radio or other resources or give
11 updates?

12 A. As needed.

13 Q. As needed; is that accurate?

14 A. Yes.

15 Q. If an officer saw that there were civilians near
16 a potential shooter, what should the officer do?

17 A. Get that citizen away from them.

18 Q. Okay. If the officer allowed civilians to just
19 stay in the same place, does that mean that the officer
20 concluded that that same place, that original location,
21 was safe?

22 A. When you say "allowed" --

23 Q. So, yeah, the first question, we talked about if
24 an officer saw civilians kind of in the line of fire, he
25 or she would move those civilians?

1 A. Yes.

2 Q. And then, presumably, the kind of converse of
3 that is if the officer allows someone just to stay
4 where they were, that means the officer concluded those
5 civilians were as safe, as far as he or she could tell?

6 A. Yes.

7 Q. Would there ever be a situation where an officer
8 said: Generally, we've got to get people out of the
9 line of fire, but I'm going to leave these particular
10 people -- these exceptions in the line of fire, this --
11 maybe they can provide a special service.

12 A. Yes.

13 Q. And tell me more about that.

14 A. When I said CIT, we have where we have people
15 from Texana to come out for individuals that we deem to
16 have a mental issue. They help to de-escalate, so
17 they'll be in the area. Still want to keep them out of
18 the line of fire, as well, but they may be closer than
19 what a regular civilian would be.

20 Q. I understand. So when someone -- what does
21 "CIT" stand for?

22 A. "Critical incident training."

23 Q. So if someone of critical incident -- for a
24 critical incident, and you have a Texana employee you
25 still want to move them out of the line of fire, but

1 they may be able to be closer to the incident --

2 A. Yeah. Than a regular citizen, yes.

3 Q. Would the officer warn the mental health
4 professional or Texana to stay behind cover?

5 A. Yes. I would think so, yes.

6 Q. And is there any written policy on, you know,
7 Texana or CIT professionals that the sheriff's office
8 has?

9 A. Any written policy on how to --

10 Q. I understand that that question was a little
11 unclear. We talked a little bit about how CIT folks,
12 or Texana, or mental health folks might get a special
13 exception to stay closer to the scene. Is there a
14 policy anywhere that says effectively that?

15 A. I don't think so, but they train with us.

16 Q. They train with you.

17 A. Go through training, yes.

18 Q. So tell me what that training looks like.

19 A. Just -- we do scenarios on active shooters and
20 things like that, so we do training on what to do, how
21 to respond.

22 Q. Okay. And the Texana employees participate in
23 said training?

24 A. Yes.

25 Q. Do they ever participate in role-playing?

1 A. Yes.

2 Q. If there was an -- if there was an active
3 shooter potential situation, would the officer ever
4 explain the risks of remaining onsite to someone like a
5 Texana or CIT worker?

6 A. They should know that.

7 Q. And what would the officer do to make sure those
8 folks were protected? Would the officer stay with
9 them?

10 A. Yeah, they would be on the scene with them, yes.

11 Q. Not only be on the scene with them, but let's
12 say there's an active or potentially active shooter.
13 Is it protocol for an officer to remain with the CIT
14 employee or CIT professional?

15 A. Yes.

16 Q. When dealing with a potential shooter situation,
17 do officers wear special vests?

18 A. Yes.

19 Q. And front-line officers, on a daily basis, they
20 wear some kind of body armor?

21 A. Yes.

22 Q. A special vest -- what's the right term for
23 that?

24 A. "Vest."

25 Q. So, on a daily basis, officers are wearing a

1 special vest, a bulletproof vest?

2 A. I don't like the term "bulletproof", because all
3 of them are not bulletproof.

4 Q. Right, so I was trying to find the right term.
5 Let's say a safety vest.

6 MR. HEDGES: Maybe ballistic vest.

7 THE WITNESS: Yes.

8 BY MS. HEBERT:

9 Q. And the idea behind a ballistic vest is to try
10 to keep the officer safe if they get shot?

11 A. With certain weapons.

12 Q. With certain weapons, that they're going to be
13 protected?

14 A. Yes.

15 Q. At least more protected than if they weren't
16 wearing said vest?

17 A. Yes.

18 Q. And when dealing with a potential shooter
19 situation, would you expect the officer to try to keep
20 they were eyes on where the shooter might be?

21 A. Yes.

22 Q. When would it be appropriate for an officer to
23 turn their back on where a potential shooter might be?

24 A. If they're trying to protect someone else --
25 themselves or someone else, something like that.

1 That's rare, but other than that, you keep your eye --

2 Q. Okay, so let me make sure I understand. So
3 other than when an officer -- and this would be
4 incredibly rare -- is trying to use his or her body to
5 literally shield someone from bullets --

6 A. Yes.

7 Q. -- an officer should not be turning his back to
8 a potential shooter?

9 A. Yes.

10 Q. If an officer had to arrest someone on a scene
11 with a potential shooter, how would the officer ensure
12 that he and the arrestee stayed safe?

13 A. Arrest that person and take them away from the
14 scene.

15 Q. Okay. And what if that wasn't feasible? What
16 if you couldn't take the arrestee away from the scene,
17 given the reality on the ground?

18 A. Then we call -- radio in for some help to have
19 that person removed.

20 Q. Okay. How are you doing? Do you need a break?

21 A. I'm good. Just came back from lunch.

22 Q. Let's talk a little bit about offenses under
23 Texas law, and we'll get to the offense that Justin
24 Pulliam was arrested for in a little bit, but under
25 Texas law, is it generally an offense to fail to comply

1 with a police order?

2 A. Yes.

3 Q. And do you know what offense that is?

4 A. Not off the top of my head, no, I can't read the
5 law, but I know it's a law.

6 Q. So generally, if you don't do what the police
7 say, you're committing offense?

8 A. In certain situations, yes.

9 Q. Okay. And what kind of situations?

10 A. Like we was just talking about; a active shooter
11 in there.

12 Q. A potential shooter. So if you didn't
13 immediately comply with a police order in an active
14 shooter event, you would be committing an offense?

15 A. Yes.

16 Q. What about when you have, like, a less critical
17 incident? Let's say, you know -- we'll go back to Mr.
18 Hedges' example.

19 MR. HEDGES: Why do I always have to be
20 the criminal?

21 BY MS. HEBERT:

22 Q. Well, you're not the criminal. That's why
23 you're so great. Mr. Hedges is walking down the
24 street, and the officer orders Mr. Hedges to cross the
25 street. If Mr. Hedges failed to do that, would he be

1 committing an offense?

2 A. No.

3 Q. And is it an offense to question a police
4 officer order?

5 A. No.

6 Q. Is it an offense to ask for clarification for a
7 police officer order?

8 A. No.

9 Q. What is your understanding of the offense of
10 interference with public duties? And, by that, I mean
11 what kinds of conduct is interference with public
12 duties?

13 A. Hindering the officer from doing his legal duty,
14 hindering the officers from making arrests.

15 Q. So there's a lot of things that could,
16 presumably, hinder an officer from doing his duty or
17 making an arrest. You know, if you were hungry, and you
18 were doing your duty, and I had a pizza, I mean, that
19 might distract you from doing your duty and making an
20 arrest, no?

21 A. No.

22 Q. You wouldn't be distracted based on this
23 awesome-smelling pizza that I had?

24 A. No.

25 Q. All right. Presumably, if I started shouting at

1 you, "Hey, Sheriff Fagan, come get this awesome pizza",
2 as you were trying to make an arrest, would that
3 distract you?

4 A. No.

5 Q. If I --

6 A. Hunger is a bad example. No.

7 Q. Okay, so hunger doesn't work. But if I decided
8 to, like, you know, chuck the pizza at you.

9 A. Yes.

10 Q. Okay. If I decided to say -- you know, protest
11 the fact that you had shut down all the pizza shops in
12 town, and I kind of walked into the middle of where you
13 were making an arrest, would that be interference with
14 your duties?

15 A. If you walk in between me and my subject -- yes.

16 Q. So, kind of to summarize, something more than
17 being present for -- you know, enticing you with pizza
18 is needed to commit the offense of interference with
19 public duties?

20 A. Yes.

21 Q. Any idea on how to really articulate what that
22 "something more" is?

23 A. It depends on the situation and the type of
24 arrest you're going to do.

25 Q. Okay. Would the person who, you know, is

1 potentially committing this offense, what would their
2 mental state have to be?

3 A. What you --

4 Q. Would they have to have any -- would they have
5 to have the specific purpose of interfering with your
6 duty?

7 A. No.

8 Q. So just by the fact that they did something that
9 interfered with your carrying out of the arrest or the
10 duty, that means that they are liable for the offense?

11 A. Yes. After being warned and it continuing, yes.

12 Q. So you would have to warn them first?

13 A. Would I have to? No. I don't have to, but will
14 I? Yes.

15 Q. Okay, so there is no requirement to say, "Hey,
16 Christy, stop throwing pizza at me"?

17 A. No.

18 Q. So you could just arrest me for throwing pizza
19 at you?

20 A. Yeah. If you hit me with it, yeah.

21 Q. Well, I'm not a very good shot, so probably not.
22 But if I decided I was protesting the arrest, or, you
23 know, you shutting down pizza shops, would you have to
24 give me a warning?

25 A. For?

1 Q. Before I, you know, was going to be arrested for
2 the interference with your duties; if I was being
3 obnoxious or getting in your way?

4 A. It would be a warning.

5 Q. Okay, so if I was potentially getting in your
6 way, you would have to give me a warning to make sure
7 that I knew?

8 A. Yes, I'll give you a warning. That's the
9 deescalation part of it, yes. I would give you a
10 warning.

11 Q. Okay. To your knowledge, is there any specific
12 training that a sheriff's office gives officers on the
13 offense of public interference with duties?

14 A. The de-escalation.

15 Q. Okay, so you would classify the de-escalation
16 as, like, the training?

17 A. Yes.

18 Q. When is a countdown supposed to be used? What's
19 a -- how is a countdown used?

20 A. It's officer discretion. There's no such thing
21 as a countdown that we're trained on. That's a
22 discretion -- I use that when the situation merit it, so
23 if it's a dangerous situation, I'm not going to wait
24 that long. If it's not that dangerous, you might get
25 more time. If it's something I think needs to be

1 expedited, then I'll probably give a countdown.

2 Q. Okay, so let me make sure I understand, then.

3 You personally, as the sheriff and the law enforcement
4 officer that you are -- many years, you've been on the
5 force -- you personally have used countdowns as a
6 tactic?

7 A. Yes.

8 Q. And are officers trained to use countdowns? Is
9 that, like, a technique that they train officers --

10 A. That's a tactic. I don't know if they're
11 trained, but that's a technique that I use. In law
12 enforcement -- I don't know if I'm getting off your
13 question, but --

14 Q. No, you're fine.

15 A. In law enforcement, you're trained in a lot of
16 different things, so you take some things and put in
17 your toolbox. Other things, you don't. Like, no, I'm
18 not going to use that, I'm going to use this. So I
19 don't know where I learned -- I know I got that in the
20 class, some training, so that's something that I use.
21 Now, I have some officers that use it, as well, too,
22 but if you're saying that countdown, is it TCOLE, I
23 never saw it as TCOLE training, no.

24 Q. And you wouldn't know if the sheriff's office
25 specifically has given trainings on countdowns?

1 A. No.

2 Q. And you talked a little bit about, you know --
3 let me rephrase that. You talked a little about when
4 you personally would use a countdown, and you said that
5 you would use a countdown when it wasn't, like, a
6 critical, immediate situation?

7 A. Uh-huh.

8 Q. Was that correct?

9 A. Yes.

10 Q. And you wouldn't use a countdown if complying
11 with a police order or doing a certain action was, like,
12 mission critical for that moment?

13 A. Yes.

14 Q. And then when you do use a countdown, you
15 provide some kind of warning; is that right?

16 A. Yes.

17 Q. You would say something like I tell my two-year
18 old; "If you don't pick up your toys in five seconds,
19 you're going to have no dessert. Five, four, three,
20 two, one"; is that correct?

21 A. Yes. It's a de-escalation technique.

22 Q. Okay. And this is what happens with my two-year
23 old: If I just start randomly counting, he thinks it's
24 super-fun to count with me, and -- he's not really
25 great at number 3, so it goes "1, 2, 1, 2", a lot and

1 then "1, 2, 1, 2", and won't get to 3. If you were to
2 use the countdown technique without warning someone
3 what's going to happen at the countdown, that wouldn't
4 be very effective; is that correct?

5 A. No, it's really effective. I look at my watch
6 instead of -- that's a technique.

7 Q. Okay, so you look at your watch. Do you ever
8 tell the person when you're looking at your watch and
9 counting down, "Look, dude. You're going to do what I
10 say", or, "If you don't leave the area", or, "If you
11 don't X, Y, or Z" --

12 A. No. I say, "You have five minutes", and I'll do
13 that.

14 Q. And you don't tell them what the consequence of
15 five minutes might be?

16 A. Beforehand, if you don't leave, you'll get
17 arrested in five minutes. I'm not even really looking
18 at the watch. I'm just looking down at the watch.

19 Q. Okay. So the implication --

20 A. Yes.

21 Q. -- if I'm understanding you, is anytime you're
22 looking at your watch or counting down, if you don't do
23 whatever I said you're going to do beforehand, you're
24 going to be arrested?

25 A. Yes.

1 Q. Okay. I'd like to talk a little bit about
2 welfare checks. I understand what was going on with
3 Edwin Kraft on December 2021 -- December 21, 2021 --
4 there's a lot of "2s" and "1s" -- was kind of a welfare
5 check performed out in the public. What is a welfare
6 check?

7 A. Checking on the person's wellbeing and mental
8 health, or their physical health.

9 Q. And does the sheriff's office have written
10 policies on welfare checks performed out in the world?

11 A. I'm not sure what you --

12 Q. Yeah, so does the sheriff's office have any kind
13 of written policy of: This is the procedure for
14 performing a welfare check on someone who's, you know,
15 at their house or --

16 A. If we're talking about that situation, we knew
17 he was a person in crisis, so, yeah, we have a certain
18 way we handle that.

19 Q. So you have a policy on how you handle someone
20 in crisis?

21 A. Yes.

22 Q. And if they weren't someone in crisis -- let's
23 say my mom calls your office and says go check this
24 college kid's apartment, or something like that, do you
25 have a policy for that kind of welfare check, too?

1 A. Yes.

2 Q. Is that written down somewhere?

3 A. Yes.

4 Q. Would it be, like, a general order on welfare
5 checks?

6 A. Just probably a SOP.

7 Q. What does that stand for?

8 A. "Standard operating procedure"; so -- because
9 you still have to follow the law. If your mother called
10 to go check on this college student, knock on the door,
11 don't get a answer, I don't have a warrant to get into
12 that house. I have to have a reason. Like, say, I see
13 flies on the windows or something like that. I'll call
14 the D.A. and get a warrant to go in.

15 Q. And, generally, how do welfare checks come
16 about? Seems like it might be someone calling in. Is
17 --

18 A. A loved one usually calls because of someone.

19 Q. Okay, that's the typical way it surfaces?

20 A. Yes.

21 Q. And then what's the procedure for a welfare
22 check? What's the first step?

23 A. Get a unit out there first, try to get all the
24 information that we can, find out if this person's in
25 crisis or not, or find out if they have some type of

1 medical emergency, try to find out why you need the
2 welfare check, trying to figure out what we're doing
3 there.

4 Q. And then, you know, before body cams in 2022
5 were a part of your sheriff's office, was there a way
6 that welfare checks were recorded?

7 A. I wouldn't know. I didn't work here there --
8 before this.

9 Q. Well, you worked at the sheriff's office --

10 A. Before the body cameras --

11 Q. -- in 2021, you were there?

12 A. Yeah.

13 Q. So how were welfare checks recorded in 2021?

14 A. By offense reports.

15 Q. Okay, and did officers have dash cameras in
16 2021?

17 A. Yes.

18 Q. Did every officer have a dash camera?

19 A. I believe so. Patrol.

20 Q. Every patrol officer?

21 A. Yes.

22 Q. And what's the difference -- how do you
23 distinguish between patrol versus non-patrol?

24 A. I have people who work in the jail, dispatchers,
25 investigators.

1 Q. Okay, so anybody who's not out in a police
2 cruiser driving around is not patrol -- it would be
3 anybody who's in a police cruiser driving around,
4 regardless of what rank, they are going to have a dash
5 camera?

6 A. No. There's certain ones that have dash camera.
7 People in patrol, the sergeants in patrol. Some
8 lieutenants, I mean, won't have one. We don't have a
9 unlimited budget, so I have to be --

10 Q. Judicious?

11 A. Yeah.

12 Q. Okay. So, you know, deputies probably have
13 them?

14 A. Yes.

15 Q. Sergeants probably have them?

16 A. Yes.

17 Q. After a welfare check is completed, how is that
18 documented? Just an offense report?

19 A. Offense report, yes.

20 Q. And what -- would the conclusion of that
21 incident was -- would be written down in that offense
22 report?

23 A. Yes, unless if it was one that had a mental
24 health person there, it would be two reports; a offense
25 report and a report from Texana.

1 Q. And anytime there's, like, a person in mental
2 crisis, would you expect that there would be some kind
3 of mental health professional with an officer?

4 A. We try to get a mental health professional with
5 us, yes. Not all the time, but we try to.

6 Q. So if you have enough notice -- I mean,
7 obviously, if an officer interacts with someone who's
8 having a nervous breakdown on the street, they're not
9 going to have a mental health officer --

10 A. Right.

11 Q. But if there's enough notice, you're going to
12 try to call someone with specialized mental health
13 training?

14 A. Yes.

15 Q. What about welfare checks done in the jail? Now
16 do those come about?

17 A. Well, they have to check on inmates on every
18 hour, so they're always having welfare checks, and then
19 if it's someone that's in a mental crisis if we have
20 them in a certain room, they'll check every thirty
21 minutes; suicide watch, every fifteen minutes.

22 Q. So within the jail itself, the employees of the
23 jail are doing checks --

24 A. Called rounds.

25 Q. Rounds.

1 A. Yes.

2 Q. They're doing rounds at regular intervals?

3 A. Yes.

4 Q. What does that kind of welfare round look like
5 in the jail?

6 A. They're looking -- physically looking to see if
7 a person's all right.

8 Q. And do they, like, have a clipboard or write
9 down every time, or -- like, "Inmate 1, fine"; Inmate 2,
10 fine" --

11 A. No.

12 Q. They just kind of --

13 A. It has a secure -- I forgot what the name of
14 this computer thing. It has a little thing on the -- on
15 the cell, and we look in to see about -- you scan it and
16 it writes things down for you.

17 Q. That's pretty cool. All right, so maybe I'm a
18 little antiquated, here, but, you know, everybody has a
19 QR code on their jail that you scan to make sure they're
20 -- so, you know, when they're doing their rounds, they
21 scan all the people to, like, mark that they've checked
22 on them?

23 A. Yes.

24 Q. And if someone were in a mental health crisis,
25 but the jail professional -- what's the right word

1 there? "Jailer"?

2 A. Uh-huh. You can say "jail employee", yes.

3 Q. A jail employee determines that no treatment is
4 necessary, you would expect that to kind of be written
5 down or indicated in their, like, QR code log?

6 A. Uh-huh. Yes.

7 Q. And if a welfare check was prompted by some kind
8 of, let's say medical concern, someone was having heart
9 palpitations. Would you expect some kind of medical
10 professional to be involved?

11 A. Yes.

12 Q. So if someone was complaining or had a medical
13 condition, you would have a doctor or a nurse check
14 them?

15 A. Yes.

16 Q. Not just a conventional jail employee?

17 A. Yes.

18 Q. Do you have an estimate for how many people get
19 arrested in Fort Bend County on a daily basis?

20 A. No.

21 Q. Do you guys have records on, maybe, how many
22 people get arrested on a monthly basis?

23 A. Yes, I'm sure we do.

24 Q. Without having to, like, look at the specific
25 records, could you give me an estimate on what that

1 looks like?

2 A. I don't look at that estimate. I never have. I
3 look at the number in my jail each and every day. Like
4 today, I know I have 803, and 107 of them are females;
5 so I'll look at that.

6 Q. Is that, you think, typical of a day at the
7 sheriff's office? 800 inmates?

8 A. 803 today.

9 Q. 803; so you know that really well?

10 A. Yeah, I look at it every day.

11 Q. And is that a typical amount, 803 folks in the
12 jail?

13 A. It varies.

14 Q. What's the kind of range?

15 A. When I first got here, it usually ranged from
16 675 to 700, and now it's -- for the last two months,
17 it's been averaging 800 to 803, to 806; 800 to 803, 806;
18 806 is the highest so far.

19 Q. So you've been kind of having more folks in the
20 jail lately?

21 A. Yeah. More people are moving to Fort Bend.

22 Q. Yeah, it's a growing area. And each time
23 someone is arrested by a sheriff's officer, do they
24 bring that arrestee to the Fort Bend County Jail?

25 A. Yes.

Sheriff Eric Pagan

1 Q. So you wouldn't, like, arrest someone and then
2 let them go?

3 A. That has happened, yes.

4 Q. Okay, so you would arrest someone and then say:
5 Eh, we're not bringing this person into the jail?

6 A. Yeah, if that person's ill or something like
7 that, we may have to take them to the hospital or
8 something like that. Well, they'll still be under
9 arrest, but we have to take them to the hospital or
10 something like that.

11 Q. Okay, so other than, like, taking someone who's
12 ill or in, like, a condition, to the hospital, do you
13 ever just arrest someone and say, "Nah, sorry, go ahead.
14 Go home."

15 A. I don't arrest people. No.

16 Q. Do you know if your officers do?

17 A. No. I don't know that.

18 Q. Do you personally perform welfare checks on
19 every person who's in the Fort Bend County jail?

20 A. On every person? No. I have done it several
21 times.

22 Q. Okay. So how many times a day would you say you
23 check on someone in the jail?

24 A. I've done it five times since I've been sheriff.

25 Q. Okay, so five times since you've been sheriff,

1 you've checked on someone in the jail?

2 A. Yes.

3 Q. And can you tell me about those five times?

4 A. Once, a mother called me worried about her son,
5 and I went over and checked on him and then called her
6 back. One, I had a autistic young man that was
7 arrested. The parents were in the -- in the bonding
8 area when I walked through and I saw the lady crying,
9 and I asked what was wrong, and she said her autistic
10 son was arrested, so I went back in the jail to check
11 on the autistic son. I stayed with that young man
12 until they got through with the bonding. I made sure
13 they didn't place him into a cell, because he didn't
14 understand. He was autistic, and so I stayed with him
15 until they got through, and brought him back out to the
16 parents. That was the second time. Third time I went
17 in, the mother had called and said her son wrote and
18 said he was going to commit suicide. I went in to go
19 check on that individual; and the fifth time was -- I
20 figure you're going to ask me questions about that --
21 was Pulliam.

22 Q. So you had the mother of the autistic, the
23 potential suicide; what was the fourth time?

24 A. Another suicide.

25 Q. And then the fifth time was Pulliam?

Sheriff Eric Pagan

1 A. Pulliam.

2 Q. So how do you decide who warrants a personal
3 welfare check from the sheriff?

4 A. Some parents -- I'm like that. I'm a parent, so
5 I'll do it. On Pulliam, I knew that he had a bad
6 relationship with the sheriff's office. I went over
7 there so people could see me with him so he would be
8 treated fairly and nobody would -- I'm not saying
9 nobody was going to do anything to him, but I wanted
10 them to know that I had eyes on him, so that's why I
11 went. Or that's what warrant me to go over there.

12 Q. I understand. And I'm just asking generally
13 now -- walk me through the process of, like, performing
14 a welfare check at the jail. What's the first step you
15 take when you're going to go over there?

16 A. You're talking about when I go do a wel --

17 Q. Yes, sir.

18 A. I ask where this inmate is, I ask for that
19 inmate, find out where they are, and I just go look.

20 Q. Okay. And after you complete a welfare check
21 for the other four examples that you talked about, do
22 you write anything up?

23 A. No.

24 Q. Any documentation at all?

25 A. No.

Sheriff Eric Pagan

1 Q. Nothing to say, like, "I checked on this woman's
2 son and he was fine."

3 A. No.

4 Q. And if, in any situation where you did a welfare
5 check, you determined that treatment was necessary, you
6 would call for that treatment --

7 A. Yes.

8 Q. -- or document that you were going to get the
9 treatment?

10 A. Yes.

11 Q. And are there cameras in the jail?

12 A. Yes.

13 Q. So there would be footage of you kind of when
14 you come in and out of the jail?

15 A. Yes.

16 Q. And would there -- are all areas of the jail
17 covered by cameras?

18 A. No.

19 Q. What areas are?

20 A. By law, you can't video where people are taking
21 showers at. You can't video certain areas where --
22 where it's not -- where anyone is going to take
23 showers, you can't be --

24 Q. Be indecent.

25 A. Yeah. Indecent; you can't do things like that.

1 Q. So other than where people are going to be
2 indecent, would you estimate that there are cameras in
3 the rest of the jail?

4 A. Yes, but there are some spots that we don't
5 catch everything. There's some blind spots. We don't
6 let them know about it, but we have blind spots.

7 Q. So there are some blind spots, but there's no
8 cameras capturing it?

9 A. Yes.

10 Q. And you would know where those blind spots are?

11 A. I don't know every one, no.

12 Q. You know some of them?

13 A. Yes.

14 Q. I want to talk a little bit about that
15 interaction you mentioned with Justin Pulliam in the
16 jail on December 21, 2021, and that was the date that
17 Justin Pulliam was arrested for that offense of
18 interference with public duties. Let's start by going
19 back to Exhibit 4, which are your RFAs, and I would
20 like to turn to page 7, number 19.

21 We've already kind of talked about this. You
22 admitted that you visited Justin Pulliam in the jail.
23 Chief Deputy Matty C. Provost was with you, and another
24 individual. Can you tell me who that other individual
25 was?

Sheriff Eric Pagan

1 A. I think it was -- I'm not really sure. I think
2 it was Wong, but I might be wrong.

3 Q. Who --

4 A. Assistant Chief Wong.

5 Q. And can you tell me what Assistant Chief Wong's
6 first name is?

7 A. Norman.

8 Q. Norman. Okay.

9 A. But, like I said, I might be wrong about that.

10 Q. Okay. And how did you learn that Justin Pulliam
11 had been arrested?

12 A. They notified me.

13 Q. Do they notify you every time someone's
14 arrested?

15 A. No.

16 Q. So Justin Pulliam's arrest was a special case?

17 A. Yes.

18 Q. Okay, and who notified you?

19 A. Someone over at the jail.

20 Q. And what did they say?

21 A. "Justin Pulliam is in our jail."

22 Q. And what was your reaction?

23 A. "Okay"; and I went over.

24 Q. And your office and the Fort Bend County Jail
25 are not in the same building, correct?

Sheriff Eric Pagan

1 A. No.

2 Q. So you had to walk outside and then go to the
3 jail?

4 A. Yes.

5 Q. And where was Justin Pulliam in the jail when
6 you first saw him?

7 A. In booking.

8 Q. In booking; and did you check in with Justin in
9 booking?

10 A. What you mean, "check in"?

11 Q. So you were doing a welfare check with Justin
12 Pulliam?

13 A. Yes.

14 Q. By going to booking, did you try to talk to
15 Justin in booking?

16 A. I asked where Justin was, and they pulled Justin
17 out to me.

18 Q. Where did they pull him out to?

19 A. They pulled him from wherever he was in booking,
20 into a room where I was.

21 Q. So you were -- in summary, you told some other
22 employee to go get Justin Pulliam?

23 A. Uh-huh.

24 Q. They fetched and brought Justin Pulliam to you
25 in a room?

1 A. Yes.

2 Q. Okay. Is the room that you were in -- what's
3 the room that you were in?

4 A. Just a office.

5 Q. Some kind of office space?

6 A. Yes. I believe it was the sergeant's office.

7 Q. And is that room, the sergeant's office, did it
8 have a -- a video camera?

9 A. On the outside.

10 Q. On the outside, but not inside the office?

11 A. Not inside the office; that I know of.

12 Q. Sure. Not that you know of. Let's look at
13 number 20, which I think is on page 8. So, again, this
14 is Exhibit 4, number 20, page 8.

15 Now, this request for admissions asks about the
16 conversation. You denied that a conversation happened.
17 Your response, to be precise, is "Denied. Plaintiff
18 said nothing. There was no conversation." Did you say
19 anything to Justin Pulliam?

20 A. Yes.

21 Q. And what did you say?

22 A. "Justin, are you all right", and, "Why are you
23 arrested?"

24 Q. And what did he say?

25 A. Nothing.

1 Q. Did he ask to speak to his attorney?

2 A. No.

3 Q. Did you continue to ask Justin any questions?

4 A. No.

5 Q. So just asked Justin one question?

6 A. No, that's not true. I asked Justin, "Are you
7 all right? Do you know why you're here?" He didn't
8 say anything. I said, "Justin, are you all right?" He
9 said nothing, and that was the end. So I asked that
10 twice.

11 Q. Did Chief Deputy Provost ask Justin any
12 questions?

13 A. I think she did.

14 Q. Do you recall what she asked?

15 A. No.

16 Q. And then the other individual, who we're going
17 to classify as Wong, for lack of a better descriptor,
18 did he ask Justin any questions?

19 A. No.

20 Q. Did you ask Justin any kind of health-related
21 questions?

22 A. "Are you all right?"

23 Q. And did you determine that Justin looked okay?

24 A. Yes.

25 Q. Did you evaluate Justin for any, maybe, suicidal

Sheriff Eric Pagan

1 ideation?

2 A. Did I evaluate him? No.

3 Q. Did you -- when Justin refused to talk to you,
4 did you say something like, "Fine. We'll do it the
5 regular and normal way."

6 A. No. I just said, "Do it by the book." I made
7 that statement. "Do it by the book."

8 Q. And what does "by the book" mean?

9 A. Treat him fairly, like everyone else in the
10 jail. Like I said, I knew that the people at the
11 sheriff's office didn't like Justin Pulliam. That's
12 before I got there, and I don't know the guy from
13 anyone else. I just wanted to make sure he was treated
14 fairly. That's why I went over there. If the sheriff
15 goes over to see a inmate, that inmate is not going to
16 be jacked with. So that's the reason.

17 Q. Got it, but if a sheriff doesn't necessarily go
18 over to see an inmate, they might mess around with him a
19 little?

20 A. No. No, I'm just making sure that nobody would.

21 Q. Okay. What happened after you met with Justin
22 Pulliam? Did you go back to your office?

23 A. Yes.

24 Q. Did Chief Deputy Provost accompany you?

25 A. Yes.

Sheriff Eric Pagan

1 Q. And Mr. Wong?

2 A. I believe that was him, yes.

3 Q. And did you guys discuss what happened?

4 A. No.

5 Q. Did you discuss Justin Pulliam at all?

6 A. No -- cameraman -- I assume it was one of his
7 cameramen -- was asking him questions.

8 Q. So there was some cameraman somewhere who was
9 asking questions as you were leaving?

10 A. Yes.

11 Q. And what did you say?

12 A. Nothing. I kept walking, and he kept asking
13 questions, and I turned and answered the questions, and
14 he made the statement, "Oh, now you're going to hit me?"
15 I smiled, turned back around and -- I laughed because I
16 was like, "You stopped me, and I turned and now you're
17 saying I'm attacking?" So I turned back around and kept
18 walking.

19 Q. Okay. Did you send any follow-up e-mails or
20 text messages after you visited the jail?

21 A. I was done.

22 Q. I think now is a great time for a break before
23 we talk about anything else. We're relatively close to
24 being done, so let's take a brief intermission.

25 COURT REPORTER: Off the record, 1:47.

Sheriff Eric Fagan

1 [Off the record.]

2 COURT REPORTER: Back on the record,

3 1:57.

4 By MS. HEBERT:

5 Q. I have a couple of questions about the December
6 21, 2021, arrest of Justin Pulliam. Other than
7 Detective Travis James, who investigated Justin for
8 that offense -- putting that aside, did anyone in the
9 sheriff's office, or yourself personally, investigate
10 the decision to move Justin away from the press
11 conference in July?

12 A. No.

13 Q. And did anyone investigate the decision to
14 arrest Justin, other than Detective Travis James?

15 A. No.

16 Q. There was no internal investigation?

17 A. No.

18 Q. Was anybody disciplined for actions dealing with
19 the December of 2021 arrest? To be more precise, was
20 anybody disciplined or counseled after Justin Pulliam
21 was arrested?

22 A. No.

23 Q. Related to that arrest.

24 A. No.

25 Q. We talked a little bit about welfare checks, and

~~Sheriff Eric Pagan~~

1 folks in CIT and crisis, and we talked a little bit
2 about Texana employees, and you indicated that, when
3 there's some kind of incident -- a mental health
4 incident, there will be the offense or incident report,
5 and some kind of Texana report. Does the Texana report
6 get shared with the sheriff's office?

7 A. If we request it.

8 Q. So the sheriff's office has the right to request
9 the Texana report?

10 A. Yes.

11 Q. Okay, I just have a couple more questions to
12 clean up about the July 2021 press conference. You're
13 aware that, following the July 2021 press conference,
14 the discovery of someone's remains in the creek was
15 reported by several news outlets?

16 A. Yes.

17 Q. And are you aware that Justin Pulliam did not
18 have any footage of the press conference?

19 A. No.

20 Q. When the -- earlier, we talked about when one of
21 the media people complained to you about Justin
22 Pulliam, when they made that complaint, did the media
23 person say they were in fear for their life?

24 A. No.

25 Q. Did they say anything like they were being

1 threatened by Justin?

2 A. No.

3 Q. Did the media person say anything like Justin
4 was being physically inappropriate?

5 A. They said that he's escalating the situation.

6 Q. With the media people?

7 A. The term was "escalating the situation." I'm
8 assuming they were meaning about -- I don't know if it
9 was a brother or what relation he was to the deceased.

10 Q. Okay, so the only really -- the complaint was
11 Justin did something with the family of the deceased?

12 A. Yes.

13 Q. So it was not a complaint that Justin did
14 something inappropriate to the media person him or her
15 self?

16 A. They were just saying that he was being
17 unprofessional and making it bad because he was
18 escalating the situation with the family, from I can
19 remember.

20 Q. Okay, so, as far as you can remember, there was
21 one incident with the family, and you heard about that
22 incident from --

23 A. One of my deputies.

24 Q. One of your deputies and the media person?

25 A. Yes.

Sheriff Eric Pagan

1 Q. And that was it?

2 A. That was it.

3 MS. HEBERT: We don't have any other
4 questions at this time. Pass the witness.

5 EXAMINATION BY MR. HEDGES:

6 Q. Sheriff, I know you've got something fairly
7 emergent to do this afternoon, but there is one thing I
8 wanted to follow-up on. Right before we took our last
9 break, you mentioned that people from the sheriff's
10 office didn't necessarily like Mr. Pulliam. Tell us
11 about the time frame you're talking about there.

12 A. The prior administration that, when Nehls was
13 sheriff here, they wouldn't allow him -- they said he
14 was a troublemaker and things like that. That was one
15 of the reasons why I allowed him in that video right
16 there to come into the office, and told him he can come
17 -- if he wanted to speak to me, just call and make an
18 appointment to speak with me, and that's the reason I
19 let him come into that -- when I had all the law
20 enforcement come in. I don't know him from anyone. I
21 never met the guy, so nothing personal to me, no. No
22 big deal to me.

23 Q. All right, well that's all I wanted to clear up,
24 and like I said, I know you've got someplace you need to
25 be.

Sheriff Eric Fagan

1 FURTHER EXAMINATION BY MS. HEBERT:

2 Q. Just kind of one quick -- or two quick questions
3 about that. When you said "that video", I just want to
4 clarify for the record you were referring to Exhibit 5,
5 the video from 2021 where you were having a
6 conversation with Justin Pulliam?

7 A. In my coat and my mask.

8 Q. Yes. And it said "Eric Fagan" on the mask?

9 A. "Sheriff Fagan", yes.

10 Q. "Sheriff Fagan" on the mask.

11 A. Okay.

12 Q. You're referring to the video that's Exhibit
13 5 --

14 A. Yes.

15 Q. -- when you say "that video"; I just wanted to
16 clean that up for the record.

17 A. Yes.

18 Q. And when you were answering Mr. Hedges'
19 questions about folks who didn't like Justin Pulliam,
20 and that was the prior administration, when you took
21 office, did you clean house? Were most of the people
22 fired?

23 A. No.

24 Q. Did most of the people stay on?

25 A. Yes.

Sheriff Eric Pagan

1 Q. Did anyone leave?

2 A. Yes.

3 Q. Who left?

4 A. Mackerel, Barfield... I don't remember all the
5 names, but a few left.

6 Q. A few left, and then you filled their positions
7 with new people?

8 A. Yes.

9 Q. But the majority of folks under the prior
10 administration are the same folks working for you
11 today?

12 A. Yes. I'm talk -- my command staff. Now, the
13 deputies and all, all of them are still there from the
14 prior administration. I would have to fire 800 people.
15 I wouldn't do that.

16 Q. Sure. And after you were sworn in as sheriff,
17 did you issue any statements with regard to Justin
18 Pulliam of -- to the nature of: Please provide Justin
19 Pulliam access, or please be nice to Justin Pulliam.

20 A. No. I just told them that the sheriff's office,
21 nobody's denied to come into this office. When they
22 told me that, it didn't make sense to me. What if he
23 come in to file a complaint, and you're saying he can't
24 -- just -- even if I don't like you, I'm not going to
25 tell you you can't come into the sheriff's office. To

1 me, that's ridiculous; so that's the only thing I did.

2 Q. Sure. That's the only thing you did?

3 A. Yes.

4 Q. Okay. I don't have any other questions. Pass
5 the witness, in case there's anything else you want to
6 talk about.

7 MR. HEDGES: No. Thank you.

8 COURT REPORTER: Okay, read and sign and
9 copies.

10 MR. HEDGES: Yes, please.

11 COURT REPORTER: You want me to handle both
12 the copy and read and sign through you?

13 MR. HEDGES: Yes.

14 COURT REPORTER: We're off the record 2:04
15 p.m.

16 [Deposition was concluded.]

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Sheriff Eric Fagan

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REPORTER CERTIFICATION

ORAL DEPOSITION of ERIC FAGAN, taken on August 9,
2023.

I, Sarah B. Townsley, CCR, RPR, CSR, hereby certify to
the following:

That the witness, ERIC FAGAN, was duly sworn by me,
and that the transcript of the deposition is a true
record of the testimony given by the witness;

That examination and signature of the witness to the
deposition transcript was reserved by the witness at the
time of the deposition;

I further certify that I am neither counsel for,
related to, nor employed by any of the parties in the
action in which this proceeding was taken, and, further,
that I am not financially or otherwise interested in the
outcome of this action.

Certified by me on this 23rd day of August, 2023.



Sarah B. Townsley CRR CCR CSR RPR

Certified Realtime Reporter

TX CSR #5746; LA CCR #92016; RPR 814558